

**TOWN OF MILTON**

**UNIFIED DEVELOPMENT REGULATIONS**

*Adopted by the Milton Selectboard on September 18, 2017*  
*Amended by the Milton Selectboard on October 2, 2018*

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## PART 1. GENERAL

### Chapter 100. Legal Framework

#### Section 1001. Title

- 1001.A These are the Town of Milton's *Unified Development Regulations* and constitute the town's zoning and subdivision regulations.

#### Section 1002. Authority

- 1002.A The Town of Milton has adopted these regulations in accordance with and as authorized by the *Vermont Municipal and Regional Planning and Development Act*, 24 VSA Chapter 117. All statutory references in these regulations refer to the title and sections in effect on the effective date of this ordinance.

#### Section 1003. Purpose

- 1003.A These regulations implement the goals and policies of the *Town of Milton Comprehensive Plan* and the *Vermont Planning and Development Act*. They are intended to:
- (1) Provide for orderly community growth;
  - (2) Protect public health, safety and welfare;
  - (3) Ensure that proposed development will be adequately and efficiently served by necessary services, facilities and infrastructure;
  - (4) Maintain a rate, scale and pattern of development that will not exceed the town's ability to provide necessary public services, facilities and infrastructure;
  - (5) Allow for balanced housing and economic development that meets the needs of the community and region;
  - (6) Protect environmental quality and conserve natural, agricultural, scenic and historic resources; and
  - (7) Promote approaches to land use and development that are consistent with smart growth principles as defined in these regulations.

#### Section 1004. Equal Treatment of Housing

- 1004.A These regulations are intended to allow the development of housing in accordance with statutory requirements. They:
- (1) Allow mobile homes, tiny houses on wheels, modular homes and prefabricated homes to the same extent as conventional homes.
  - (2) Allow mobile home parks to the same extent as other residential subdivisions or developments.
  - (3) Permit accessory dwellings in all zoning districts that allow single-family dwellings and as an accessory use to any pre-existing single-family dwelling in accordance with Section 1110.

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- (4) Allow multi-family housing in appropriate zoning districts.
- (5) Treat group homes the same as single-family dwellings (see Section 1104).

### **Section 1005. Applicability**

- 1005.A Unless specifically exempted in Chapter 110, all land development within the Town of Milton requires a zoning permit or subdivision approval issued in accordance with these regulations.

### **Section 1006. Relation with Other Laws or Regulations**

- 1006.A If any provision of these regulations is more restrictive than any other law or regulation, the provision of these regulations will apply.
- 1006.B If any provision of another law or regulation is more restrictive than required under these regulations, the provision of the other law or regulation will apply.
- 1006.C The provisions regulating the special flood hazard area in Section 2201 will take precedence over any other provision of these regulations.
- 1006.D The provisions of the Town of Milton's duly adopted Public Works Specifications will take precedence in the case of a conflict with provisions of these regulations.

### **Section 1007. Effective Date**

- 1007.A Upon adoption by the Town of Milton, these regulations and any subsequent amendments will take effect in accordance with the procedures established in the *Vermont Municipal and Regional Planning and Development Act*.

### **Section 1008. Amendment or Repeal**

- 1008.A The Town of Milton may amend or repeal these regulations, in whole or part, at any time in accordance with the procedures established in the *Vermont Municipal and Regional Planning and Development Act*.

### **Section 1009. Severability**

- 1009.A If a court of competent jurisdiction invalidates any provisions of these regulations, that decision will not affect the validity, application or enforcement of the remaining provisions of these regulations.

### **Section 1010. Liability Disclaimer**

- 1010.A These regulations do not create any liability on the part of the town, its officials, agents, employees, or representatives for alleged damages that result from reliance on these regulations or any lawful administrative action or decision taken under these regulations.



## **Chapter 110. Exemptions and Limitations**

### **Section 1101. General Exemptions**

1101.A Except within the special flood hazard area (see Section 2201), landowners do not need to obtain a zoning permit for:

- (1) Emergency repair and stabilization of a structure damaged by any cause to the extent necessary to protect public health and safety, and to protect the structure from the elements. Landowners must obtain a zoning permit for repair, reconstruction or demolition beyond the minimum necessary to stabilize and secure the structure.
- (2) Normal maintenance and repair of, or interior alterations to, an existing structure that does not change any of the structure's exterior dimensions or its use. This exemption does not include interior alterations that change the amount of floor area associated with an existing non-residential use or that creates additional tenant spaces or dwelling units.
- (3) Normal maintenance and repair of services, such as HVAC, water, wastewater, electric, communications and driveway access.
- (4) Landscaping, grading and excavating associated with:
  - (a) Normal maintenance and repair of roads, driveways, parking areas, stormwater facilities or essential services; and
  - (b) Yard improvements on one- or two-family residential properties that do not result in more than 30 cubic yards of material being removed from or brought onto the site (typically 2 to 3 dump truck loads) within any calendar year.
- (5) A home office located on a single family or duplex residential property that:
  - (a) Has only residents as employees;
  - (b) Has no sign;
  - (c) Does not generate regular traffic in excess of what is typical of other residences in the area;
  - (d) Does not include outdoor storage or use areas, except that outdoor parking of registered motor vehicles used for the business is allowed; and
  - (e) Does not alter the residential character of the property.
- (6) Short-term rental (30 days or less) of a single family dwelling or accessory dwelling unit provided that:
  - (a) The landowner lives on the property for at least 4 months within any calendar year. Short-term rental of property that does not meet the owner occupancy requirement will be considered a commercial lodging use subject to all applicable provisions of these regulations.
  - (b) All guest parking will be accommodated on the lot and will meet applicable setback and lot coverage requirements for the zoning district.
  - (c) The landowner complies with all applicable state requirements.

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- (7) Not more than one accessory structure per dwelling unit on a single family or duplex residential property or a property used for commercial horticulture in accordance with Paragraph (28) below that:
  - (a) Is not otherwise exempted under this section;
  - (b) Has a footprint that does not exceed 120 square feet;
  - (c) Is not more than 10 feet tall;
  - (d) Is located at least 5 feet from any other structure;
  - (e) Does not have a permanent foundation; and
  - (f) Meets applicable setback and lot coverage requirements for the zoning district.
- (8) Not more than one outdoor fuel tank, or two if they contain different fuel types, per dwelling unit serving a single family or duplex residential property that:
  - (a) Holds not more than 500 gallons;
  - (b) Meets applicable setback requirements for the zoning district;
  - (c) Is sited, installed and secured in accordance with state and federal regulations;
  - (d) Is functional and in use; and
  - (e) Is sited to reduce visibility from the street to the maximum extent feasible.
- (9) Any ground-mounted HVAC system, back-up generator or similar mechanical equipment serving single family or duplex residential property that:
  - (a) Meets applicable setback and lot coverage requirements for the zoning district; and
  - (b) Is sited, installed and secured in accordance with state and federal regulations.
- (10) Not more than one stand-alone, detached, above-ground swimming pool per dwelling unit on a single family or duplex residential property that:
  - (a) Has a footprint of 120 square feet or less;
  - (b) Has a diameter of 12 feet or less;
  - (c) Does not have a permanent foundation;
  - (d) Meets applicable setback and lot coverage requirements for the zoning district; and
  - (e) Is installed and secured to prevent unauthorized access.
- (11) Not more than one at-grade patio per dwelling unit on a single family or duplex residential property that:
  - (a) Has a footprint of 300 square feet or less; and
  - (b) Meets applicable setback and lot coverage requirements for the zoning district.
- (12) Not more than one unroofed deck per dwelling unit on a single family or duplex residential property that:
  - (a) Has a footprint of 300 square feet or less; and
  - (b) Meets applicable setback and lot coverage requirements for the zoning district.

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- (c) Is attached to the principal structure, and otherwise set back 5 feet from any other structures (including pools).
- (13) Entry stairs that are not enclosed, or walkways or ADA-compliant wheelchair ramps on a single family or duplex residential property that:
  - (a) Are 6 feet or less in width;
  - (b) Do not extend into or obstruct a public right-of-way;
  - (c) Do not interfere with corner visibility or sight distance for vehicular traffic; or
  - (d) Do not result in flooding or ponding of water on abutting property or public rights-of-way.
- (14) A second staircase or ADA-compliant ramp per residential dwelling unit already served by a single staircase or ramp and that:
  - (a) Is 6 feet or less in width;
  - (b) Is 10 feet or less in height from the ground-level to the height of the tread surface at the building's entrance;
  - (c) Meets the applicable setback and lot coverage requirements for the zoning district; and
  - (d) Is minimally sized and situated for the intended functional purpose.
- (15) Any fence or wall on a single family or duplex residential property that:
  - (a) Is not more than 4 feet tall, if functioning as a retaining wall;
  - (b) Is not more than 4 feet tall, if located in the front yard;
  - (c) Is not more than 6½ feet tall from the average ground-level grade, if located in the side or rear yard;
  - (d) Does not extend into or obstruct a public right-of-way;
  - (e) Does not interfere with corner visibility or sight distance for vehicular traffic;
  - (f) Does not result in flooding or ponding of water on abutting property or public rights-of-way;
  - (g) Does not pose a safety hazard;
  - (h) Is not designed to inflict physical harm; and
  - (i) Is installed so that any support posts are to the inside and the “finished” or “good” side faces out.
  - (j) Does not cross a lot boundary line except where contiguous lots are in common ownership.
  - (k) If a retaining wall, is not located within the water resource buffers of Section 3011.
- (16) Outdoor light fixtures on a single family or duplex residential property that:
  - (a) Have an initial output of not more than 3,000 lumens; and
  - (b) Are downward directed and shielded as necessary to prevent glare or light trespass off the property.
- (17) A solar energy device that:

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- (a) Will be installed on and project not more than 10 feet above the surface of a flat roof; or
  - (b) Will not extend beyond the roof line or more than 5 feet above the surface of a roof with a slope of 5% or more.
- (18) A wind energy device that will be installed on a roof and project not more than 10 feet above the roof surface.
- (19) A television antenna, radio antenna, satellite dish or similar device used to provide on-site communication service that:
  - (a) Is not more than 15 square feet, if a dish antenna;
  - (b) Does not extend more than 12 feet above the roofline, if attached to a building;
  - (c) Does not extend more than 50 feet above the ground, if a freestanding amateur radio antenna (including any support structure);
  - (d) Meets applicable setback requirements for the zoning district; and
  - (e) Is installed in the least visible location where it can reasonably function.
- (20) An antenna mounted on an existing structure used for single-use local business radio dispatch purposes or for police, fire, ambulance or similar emergency dispatch purposes.
- (21) Telecommunications equipment and related site development that does not exceed a footprint of 300 square feet and a height of 10 feet.
- (22) Signs listed in Section 3015.C.
- (23) Garage sales, yard sales, tent sales, auctions or similar activities that:
  - (a) Do not occur on a property for longer than 5 consecutive days and for more than 14 days in any calendar year;
  - (b) Do not extend into or obstruct a public right-of-way; and
  - (c) Do not include fireworks sales.
- (24) Sales of vehicles, equipment or similar used personal or business goods owned by the landowner or tenant that:
  - (a) Do not occur on a property for more than 60 days in any calendar year; and
  - (b) Do not extend into or obstruct a public right-of-way.
- (25) Outdoor storage of not more than one, unlicensed, unregistered and uninspected motor vehicle on a lot not otherwise approved by the Development Review Board as a use allowing such outdoor storage.
- (26) Use of public or private property for noncommercial hunting, fishing or trapping in accordance with state regulations (any structures with permanent foundations associated with such use may still require a zoning permit).
- (27) Use of public or private property for noncommercial passive outdoor recreation or gardening and customary furnishing (any structures with permanent foundations associated with such use may still require a zoning permit).
- (28) Use of public or private property for commercial horticulture as a principal use on a lot without prior site plan approval that:

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- (a) Is not a home occupation;
  - (b) Does not meet the state's definition of exempt agriculture or forestry practice;
  - (c) Does not retail on the lot without first obtaining site plan approval;
  - (d) Does not contain signage;
  - (e) Does not cause undue erosion; and
  - (f) Is not located within riparian buffers.
- (29) Land development within public road rights-of-way (approval may be required from the Town of Milton's authorized agent or VTTrans, as applicable).

### **Section 1102. Portable Structures.**

1102.A The following will be subject to the same permitting requirements as permanently located structures with foundations under these regulations unless specifically stated otherwise:

- (1) Temporary structures;
- (2) Moveable structures;
- (3) Unlicensed, unregistered and uninspected vehicles;
- (4) Storage containers; and
- (5) Other similar structures without a foundation.

1102.B Vehicles not regularly used for their manufactured purpose may not be permitted as a structure.

### **Section 1103. Public Safety Structures**

1103.A Nothing in these regulations shall prohibit the Zoning Administrator from permitting American with Disabilities Act-compliant accessibility structures that make a reasonable accommodation for a disabled resident of the property or safety improvements required by the state building code.

### **Section 1104. Group Homes**

1104.A In accordance with 24 V.S.A. §4412(1)(G), landowners do not need to obtain a zoning permit to use a lawful single-family dwelling as a group home that will:

- (1) Not serve more than 8 residents who have a handicap or disability;
- (2) Not be located closer than 1,000 feet from another existing or permitted group home as measured from property line to property line; and
- (3) Be operated under state licensing or registration.

1104.B Landowners must obtain a zoning permit for home construction or other associated land development to the same extent as would be required if the property was occupied by any household.

### **Section 1105. Public Art**

1105.A Exempt public art is art that:

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- (1) Does not function as a sign or advertising device that directs a person's attention to something else, such as a product, place, service, site or organization;
- (2) Does not contain moving, flashing, or reflective elements, such as air- or wind-activated components, inflatable elements, intermittent lighting or flashing, pennants, or other similar features;
- (3) Does not extend into or obstruct a public right-of-way unless otherwise approved by the Town of Milton's authorized agent or VTrans, as applicable;
- (4) Does not interfere with corner visibility or sight distance for vehicular traffic on streets and drives;
- (5) Does not result in flooding or ponding of water on abutting property or public rights-of-way;
- (6) Does not pose a safety hazard;
- (7) Does not depict or reference specified anatomical areas or specified sexual activities (see Section 3113);
- (8) Meets applicable dimensional requirements of the zoning district for an accessory structure; and
- (9) Enhances Milton's sense of place.

1105.B The Town of Milton encourages public art that celebrates the town's natural and cultural heritage.

### **Section 1106. Agriculture and Forestry**

1106.A In accordance with 24 V.S.A. §4413(d), landowners do not need to obtain a zoning permit to conduct required agricultural practices or accepted silvicultural practices as defined by the State of Vermont Agency of Agriculture.

1106.B Landowners conducting a required agricultural or silvicultural practice do not need to obtain a zoning permit to build an exempt farm structure in accordance with state regulations and the following:

- (1) Landowners must notify the Zoning Administrator in writing of the intent to build a farm structure. .
- (2) The Zoning Administrator may request that landowners provide a written determination from the Vermont Agency of Agriculture, Food and Markets as to whether proposed land development qualifies as an exempt farm structure.
- (3) Farm structures, other than walls or fences used for farming purposes, must meet the setback requirements for the district unless the landowner provides the Zoning Administrator with a written waiver from the Vermont Agency of Agriculture, Food and Markets. Farm structures are not required to meet bulk or height requirements for the district.
- (4) Upon the landowner's request, the Zoning Administrator will issue the landowner a letter informing the landowner whether a proposed structure qualifies as an exempt farm structure and whether he/she may build and use the structure for farming purposes without a zoning permit. A landowner must obtain a zoning permit before using an exempt structure for a non-farming purpose.

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- 1106.C Land uses and development that do not meet the state’s definition of exempt agriculture or forestry practice are subject to all applicable provisions of these regulations, including but not limited to any provisions related to agricultural enterprises in Section 3117.

### **Section 1107. Land Development with a Certificate of Public Good**

- 1107.A Landowners do not need to obtain a zoning permit for land development associated with utility, energy or telecommunications facilities that receive a Certificate of Public Good from the Public Service Board.

### **Section 1108. Community Facilities**

- 1108.A Landowners must obtain a zoning permit, and site plan approval if applicable, for land development associated with a community facility, unless otherwise exempted under these regulations.
- 1108.B Land development associated with a community facility must meet the same standards as comparable types of private development, including “location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping and screening” and compliance with the flood hazard regulations of Section 2201 if applicable, unless the applicant demonstrates that meeting the standard(s) will interfere with the intended function or use of the community facility.
- 1108.C Community facilities include:
- (1) Institutions or facilities owned by the town or state.
  - (2) Public and private schools or other educational institutions certified by the state.
  - (3) Places of worship or religious institutions.
  - (4) Public and private hospitals certified by the state.
  - (5) Waste management facilities certified by the state.
- 1108.D Community facilities do not include public utility power generating plants or transmission lines.
- 1108.E The Town of Milton strongly discourages community facilities on sites that are not zoned for the proposed use. However, the town will accept an application for a community facility in any zoning district. The Development Review Board will then apply all standards of this bylaw to the proposed development and impose any conditions it finds necessary to maximize compliance. The burden of demonstrating that a condition imposed on a community facility interferes with the intended functional use rests with the applicant.

### **Section 1109. Home Occupations**

- 1109.A In accordance with 24 V.S.A §4412(4), a resident must obtain a zoning permit for a home occupation that does not qualify as an exempt home office under Paragraph 1101.A(5).
- 1109.B The Zoning Administrator may permit a home occupation that:
- (1) Is customary in residential areas;
  - (2) Does not have an undue adverse effect upon the character of the area;

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- (3) Does not generate regular traffic or off-site impacts such as noise, odors or dust in excess of what is typical of the uses in the area;
  - (4) Has hours of operation that are limited to 7 a.m. to 7 p.m. Monday through Saturday;
  - (5) Is not primarily retail in nature, except that retail sales of goods manufactured on the premises and ancillary sales of products directly related to the provision of a personal service (e.g. sales of hair care products by a hair stylist) will be allowed;
  - (6) Occupies a minor portion (<50% of the habitable floor area) of the dwelling and/or not more than 1,000 square feet of floor area in one or more accessory buildings;
  - (7) Does not employ more than 2 people who do not live in the residence; and
  - (8) Does not have outdoor storage or use areas, including product display or parking of vehicles and heavy equipment outside an enclosed structure, except that occupational horticulture and the parking of not more than 2 licensed, registered and inspected conventional motor vehicles used for the business outside of an enclosed structure is allowed.
- 1109.C A home occupation may have one non-illuminated sign that must not be more than 4 square feet in area, which must be permitted in accordance with Section 3015.
- 1109.D A home occupation is considered an accessory use of residential property and does not require site plan approval.
- 1109.E Larger or more intensive home businesses may be allowed in specified zoning districts in accordance with Section 3102.

### **Section 1110. Accessory Dwellings**

- 1110.A In accordance with 24 V.S.A. 4412(1)(E), a landowner must obtain a zoning permit for one accessory dwelling unit (ADU) within or associated with any owner-occupied, single-family dwelling that meets all the following:
- (1) The ADU must be clearly subordinate to the primary dwelling and must have facilities and provisions for independent living, including sleeping, food preparation and sanitation.
  - (2) The ADU must not exceed 900 square feet or 30% of the total habitable floor area of the primary dwelling (prior to creation of the ADU), whichever is greater.
  - (3) The ADU must not have more than 2 bedrooms.
  - (4) The ADU must meet applicable dimensional standards for the zoning district and parking requirements for residential uses.
  - (5) The ADU must share a driveway with the primary dwelling unit.
  - (6) The applicant must obtain a town or state water/wastewater permit demonstrating adequate provision of potable water supply and wastewater services for the ADU.
  - (7) The landowner must reside on the property, but may live in either the primary dwelling or the ADU.
  - (8) The landowner complies with all applicable state requirements.



**Section 1111. Family Childcare Homes**

- 1111.A In accordance with 24 V.S.A. 4412(5), a resident must obtain a zoning permit to operate a family childcare home in his/her dwelling that conforms to the standards of this section and complies with all applicable state requirements.
- 1111.B A family childcare home may provide care for children on a regular basis in accordance with the following:
- (1) The operator may provide care to up to 6 children on a full-time basis and 4 children on a part-time basis at any one time during the school year, not including any children who live in the residence.
  - (2) Care of a school-age child for not more than 4 hours a day will be considered a part-time basis except that those part-time school-age children may be cared for on a full-day basis during school closing days, snow days and vacation days that occur during the school year.
  - (3) During the school summer vacation, the family child care home may provide care to up to 12 children, not including any children age 7 or older who live in the residence, provided:
    - (a) That at least 6 of these children are of school age; and
    - (b) A second staff person is present and on duty when the number of children in attendance exceeds 6.
- 1111.C A childcare facility that does not conform to the standards of this section will be considered a daycare and may be allowed in specified districts in accordance with all applicable provisions of these regulations.

## Chapter 120. Prior Applications, Approvals and Uses

### Section 1201. Prior Permits and Approvals

- 1201.A **Zoning Permits Issued Prior to Amendment or Adoption of these Regulations.** If the Zoning Administrator lawfully issued a zoning permit before the Town of Milton adopted or amended these regulations, an applicant will not need a new or amended permit for the project. If such an applicant does not complete the land development or receive an extension before that permit expires, the applicant will need to apply for a new zoning permit, including any development approvals as applicable, under the regulations as in effect at the time of the new application.
- 1201.B **Prior Zoning Permits for Phased Projects.** If an applicant received zoning permit approval for project development within a phased project before the Town of Milton adopted or amended this ordinance, the Zoning Administrator will issue permits for the subsequent phases of land development as approved irrespective of any change in these regulations; however,
- (1) If such an applicant does not complete the phased project as a whole within the timeframe specified in the approval, the applicant will need to apply for a new zoning permit, including any development approvals as applicable, under the regulations as in effect at the time of the new application.
- 1201.C **Development Approvals Received after September 18, 2017.** If an applicant does not obtain a zoning permit for proposed land development, other than a subdivision, that the Development Review Board approved on or after September 18, 2017 within 3 years of receiving that development approval, the approval will expire and the applicant will need to apply for a new approval under the regulations as in effect at the time of the new application. An amendment to a development approval obtained under Section 4204 or Section 4305 will not affect the expiration date of that development approval.
- 1201.D **Lawfully Recorded Subdivision Plats.** In accordance with 24 V.S.A. §4463(b), if an applicant lawfully recorded an approved subdivision plat in the Town of Milton's land records, that plat will remain valid and will not expire irrespective of any change in these regulations.
- 1201.E **Effect of Change in Ownership.** Zoning permits and development approvals remain valid irrespective of any change in ownership of the property.
- 1201.F **Expiration of Permits and Approvals.** Zoning permits and development approvals for nonresidential uses will expire if the landowner discontinues the use in accordance with Section 1205.

### Section 1202. Prior Applications

- 1202.A If a landowner submitted an application before the Town of Milton adopted or amended these regulations, the Zoning Administrator and the Development Review Board will review that application based on the regulations in effect at the time the Zoning Administrator determined that the filed application was complete.

**Section 1203. Change of Use**

- 1203.A **Change from One Use Definition to Another.** A landowner must obtain a zoning permit, and any development approvals as applicable, for a change of use if the two uses do not fall under the same use definition in Chapter 510 (e.g., a “personal service” use like a barber shop to a “restaurant” use like a coffee shop).
- 1203.B **Change within a Use Definition.** A landowner does not need to obtain a zoning permit or development approval for a change of use if both uses fall under the same use definition in Chapter 510 (e.g., a “retail” use like a clothing store to a “retail” use like a home furnishings store). Other land development associated with the change of use may require a permit or approval (e.g., new or modified signage).

**Section 1204. Expansion of Use**

- 1204.A **Nonresidential and Mixed-Uses.** A landowner must obtain a zoning permit, and any development approvals as applicable, to expand a use to occupy additional space in a non-residential or mixed-used building or on a non-residential or mixed-use lot.
- 1204.B **Residential-Only Uses.** A landowner will not need to obtain a zoning permit to expand a residential use to occupy existing space in an entirely residential building provided the number of dwelling units will not change (e.g., converting an unfinished basement or attic to habitable space). The landowner must obtain a zoning permit, and any development approvals as applicable, to change the number of dwelling units.

**Section 1205. Discontinued Uses**

- 1205.A **Nonresidential Uses.** A landowner must obtain a zoning permit, and any development approvals as applicable, to use property previously used for a nonresidential purpose for the same or another nonresidential use or residential use if the prior nonresidential use has been discontinued for more than 12 months except:
- (1) If the landowner has had to discontinue a nonresidential use as result of damage to the structure in which it is housed, the owner may re-establish the use once the structure has been repaired or rebuilt in accordance with Section 1207.
  - (2) The Zoning Administrator may extend the period of discontinuance for a conforming use to a total of not more than 3 years if the landowner demonstrates that he/she is actively marketing the property or business for sale or lease. If the use is nonconforming, see Section 1303.
- 1205.B **Residential Uses.** A landowner will not need to obtain a zoning permit to resume the use of a vacant dwelling unit for a residential purpose provided the number of dwelling units on the lot will not change.

**Section 1206. Abandoned Land Development**

- 1206.A If the land development authorized by a zoning permit is abandoned without being completed, a landowner must demolish or secure any partially completed structures, remove all structural materials from the site, restore the site to a natural grade, and re-establish groundcover to prevent erosion prior to or within 8 months after the zoning permit expires.

**Section 1207. Blighted or Damaged Structures**

- 1207.A A landowner must act promptly to secure a structure blighted or damaged by any cause as necessary to protect public health and safety.
- 1207.B Within 8 months of a structure being damaged by any cause or of the Zoning Administrator notifying a landowner that a structure is blighted as defined in these regulations, a landowner must either:
- (1) Secure the structure as necessary to protect the structure from the elements and to protect public health and safety, if the structure will be reconstructed; or
  - (2) Demolish the structure, remove all structural materials and debris from the site, restore the site to a natural grade, and re-establish groundcover to prevent erosion.
- 1207.C The Zoning Administrator may grant one or more extensions to the 8-month deadline established in Subsection 1207.B for a total of not more than 36 months upon the landowner demonstrating that:
- (1) The property does not pose a hazard to public health or safety; and
  - (2) He/she has been unable to meet the deadline due to factors beyond his/her control.
- 1207.D If a nonconforming structure is blighted or intentionally damaged (for nonconforming structures unintentionally damaged or destroyed, see Section 1302.F), a landowner may rebuild and use the structure in accordance with Section 1302 provided that:
- (1) The structure as reconstructed does not exceed the original floor area; and
  - (2) The structure as reconstructed is not more nonconforming than the original structure.
- 1207.E As part of any redevelopment project requiring approval from the Development Review Board, a landowner must secure or demolish any blighted, damaged or destroyed structures located on the subject property.

## **Chapter 130. Nonconformities**

### **Section 1301. Nonconforming Lots**

- 1301.A A nonconforming lot that lawfully existed when the Town of Milton adopted or amended these regulations may continue to exist unchanged indefinitely.
- 1301.B If a nonconforming lot comes into common ownership with one or more contiguous lots, the Town of Milton will not deem the lot merged with the contiguous lot(s) for the purposes of these regulations (a landowner may choose to merge contiguous lots in accordance with Section 4402).
- 1301.C In accordance with 24 V.S.A. 4412(2), a landowner may develop a lot that does not meet the minimum lot size for the zoning district in accordance with all other applicable provisions of this ordinance provided that the lot:
- (1) Is legally subdivided and able to be conveyed separate from any other lot;
  - (2) Existed as of the effective date of these regulations;
  - (3) Can obtain a town or state water/wastewater permit demonstrating adequate provision of potable water supply and wastewater services for lot;
  - (4) Is at least  $\frac{1}{8}$  acre (5,445 square feet) in area; and
  - (5) Is not less than 40 feet wide or deep.
- 1301.D The side and rear setbacks for single-family residential uses on lot that does not meet the minimum lot size in a zoning district that permits single-family dwellings will be reduced to 15 feet if the setbacks in the applicable district are greater.
- 1301.E A landowner with a lot that does not meet the minimum lot frontage for the zoning district:
- (1) May develop that lot in accordance with all other applicable provisions of these regulations provided that the lot:
    - (a) Is legally subdivided and able to be conveyed separate from any other lot;
    - (b) Existed as of the effective date of these regulations;
    - (c) Has access in accordance with Subsection 2006.E; and
    - (d) If accessed from a private road, records legal instruments in the Town of Milton Land Records demonstrating access rights and private road association membership and maintenance agreement prior to zoning permit approval, unless waived by the Development Review Board.

### **Section 1302. Nonconforming Structures**

- 1302.A A nonconforming structure that lawfully existed when the Town of Milton adopted or amended these regulations may continue to exist unchanged indefinitely.
- 1302.B A landowner may obtain a zoning permit, and any applicable development approvals, to use a nonconforming structure for any use allowed in the zoning district.

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- 1302.C A landowner may undertake normal repair and maintenance that does not change any of the exterior dimensions of a nonconforming structure.
- 1302.D The landowner must obtain and the Zoning Administrator may issue a zoning permit for land development that would change the exterior dimensions of a nonconforming residential structure provided that the proposed development:
- (1) Will not result in any portion of the nonconforming structure encroaching further beyond the existing nonconforming building line or height;
  - (2) Will not convert a nonconforming porch, deck or similar feature to an enclosed building space;
  - (3) Is not subject to conditions from prior approvals or permits that would otherwise restrict the proposed development; and
  - (4) Would not otherwise require a development approval from the Development Review Board.
- 1302.E The Development Review Board may approve a waiver or variance to allow a change in the exterior dimensions of a nonresidential nonconforming structure in accordance with Section 4604 or Section 4605.
- 1302.F Except within the special flood hazard area (see Section 2201), a landowner may obtain a zoning permit to repair or reconstruct a nonconforming structure that has been unintentionally damaged or destroyed by any cause (for blighted and intentionally damaged properties, see Section 1207.D) provided that:
- (1) The owner submits a completed zoning permit application or a request for an extension within 18 months of the damage or destruction occurring. The Development Review Board may grant an extension upon the applicant demonstrating that factors beyond his/her control have created an unanticipated delay (e.g., insurance claim or litigation).
  - (2) The repair or reconstruction does not change the exterior dimensions of the structure in a manner that would result in the repaired or reconstructed structure or portion of the structure encroaching further beyond the previous nonconforming building line or height.

### **Section 1303. Nonconforming Uses**

- 1303.A A nonconforming use that lawfully existed when the Town of Milton adopted or amended these regulations may continue to exist in its current location and configuration unchanged indefinitely.
- 1303.B A landowner may not move a nonconforming use from one location to another where it would also be a nonconforming use.
- 1303.C A landowner may not resume a nonconforming use that he/she discontinued or replaced with another use for more than 12 months except:

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- (1) The Development Review Board may approve a waiver to extend the period of discontinuance to a total of not more than 36 months if the landowner demonstrates that he/she is actively marketing the property for sale or lease.
- 1303.D The Zoning Administrator may issue a zoning permit to allow a landowner to extend or expand a nonconforming use to fully occupy space within the associated structure as that structure existed when the use became nonconforming. The Development Review Board may approve a greater extension or expansion of a nonconforming use as a conditional use upon the applicant demonstrating that the proposed extension or expansion will not result in greater adverse impacts on the character of the area.
- 1303.E The Development Review Board may approve the change of one nonconforming use to another nonconforming use as a conditional use upon the applicant demonstrating that the proposed nonconforming use will be less intensive in nature and more compatible with the character of the area than the existing nonconforming use.

### **Section 1304. Creation of a Nonconformity**

- 1304.A The Town of Milton prohibits any land development that would create a nonconformity except as specifically authorized in these regulations.
- 1304.B The transfer or taking of land for a public purpose (e.g., road widening) may create a nonconformity.

## **PART 2. ZONING DISTRICTS AND STANDARDS**

### **Chapter 200. General Provisions**

#### **Section 2001. Establishment of Base Zoning Districts**

2001.A These regulations establish the following zoning districts as shown on the Official Zoning Map and described in Chapter 210:

- (1) Downtown Business (DB1) District
- (2) Checkerberry Neighborhood Center (NC1) District
- (3) Historic Neighborhood Center (NC2) District
- (4) Milton Crossroads Marketplace Center (M1) District
- (5) Milton Crossroads Marketplace West (M2) District
- (6) Milton Crossroads Marketplace Municipal/Recreation (M3) District
- (7) Checkerberry Commercial (M4-C) District
- (8) Checkerberry Residential (M4-R) District
- (9) Old Towne Residential/Commercial (M5) District
- (10) Main Street (M6) District
- (11) Interstate Commercial (C1) District
- (12) Light Industrial (I1) District
- (13) General Industrial (I2) District
- (14) Industrial Conservation (I3) District
- (15) Old Towne Residential (R1) District
- (16) Medium Density Residential (R2) District
- (17) Low Density Residential (R3) District
- (18) Transitional Residential (R4) District
- (19) Agricultural/Rural Residential (R5) District
- (20) Shoreland Residential (R6) District
- (21) Beaverbrook Residential (R7) District
- (22) Forestry/Conservation/Scenic Ridgeline (FC) District

#### **Section 2002. Establishment of Overlay Zoning Districts**

2002.A These regulations establish a Flood Hazard Overlay (FHO) District as shown on the official Flood Insurance Rate Maps (FIRMs) and described in Section 2201.



## **Town of Milton Unified Development Regulations • Part 2. Zoning Districts and Standards**

### **Section 2003. Official Zoning Map**

- 2003.A The maps delineating the boundaries of the various base and overlay zoning districts established in this chapter are incorporated by reference into these regulations and adopted as part of these regulations, and constitute the Official Zoning Map.
- 2003.B The Official Zoning Map is on file in the town's planning department office. The small-scale, unofficial versions of the maps included in these regulations are for convenience only.

### **Section 2004. Zoning District Boundaries**

- 2004.A If a specific distance or measurement is not shown on the map, the Zoning Administrator will interpret any Official Zoning Map boundaries indicated as approximately following:
- (1) Roads, railroad lines, power lines or rights-of-way to follow the centerlines of such roads, railroad lines, power lines or rights-of-way.
  - (2) Lot lines or municipal boundaries to follow such lines or boundaries.
  - (3) Rivers, streams or water bodies to follow the centerlines of such rivers, streams or water bodies.
- 2004.B The Zoning Administrator will interpret any of the features listed above to be located where they exist on the ground or shown on a survey (prepared and stamped by a Vermont licensed land surveyor) at the time of the interpretation if they vary from their depiction on the Official Zoning Map except that:
- (1) A boundary line adjustment or subdivision that changes the location of a lot line will not change the location of any zoning district boundary indicated as following that lot line.

### **Section 2005. Use Standards**

- 2005.A **Applicability.** Land development must conform to the use standards for the applicable zoning district unless:
- (1) The subject use is a nonconformity and the proposed land development is in conformance with the requirements of Chapter 130.
- 2005.B **Prohibited Uses.** A use not specifically listed as permitted or conditional in a zoning district is prohibited unless the Zoning Administrator determines that the unlisted use:
- (1) Is materially similar to a listed use in the same zoning district in accordance with Subsection 2005.C; or
  - (2) Is required to be permitted in a zoning district by state or federal law.
- 2005.C **Materially Similar Uses.** The Zoning Administrator may issue a written determination that an unlisted use is materially similar to a listed use in the applicable zoning district and that it should be allowed to the same extent and subject to the same standards as that listed use if it has:
- (1) Similar impacts on the neighborhood such as traffic, noise and lighting as that listed use; and

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- (2) Similar characteristics such as building type, site arrangement, floor area, number of employees, customer traffic, equipment use, hours of operation, parking, vehicle trips and signage as that listed use.

2005.D **Multiple and Mixed Uses.** If a lot is located in one of the districts listed below, a property owner may use that lot for any combination of uses allowed in that zoning district, except that a lot containing a non-conforming use may not add an additional principal use. In all other districts, the Town of Milton only allows one principal use on a lot unless approved as part of a planned unit development in accordance with the provisions of Chapter 350 and Chapter 440.

- (1) Downtown Business (DB1) District
- (2) Checkerberry Neighborhood Center (NC1) District
- (3) Historic Neighborhood Center (NC2) District
- (4) Milton Crossroads Marketplace West (M2) District
- (5) Checkerberry Commercial (M4-C) District
- (6) General Industrial (I2) District
- (7) Industrial Conservation (I3) District

2005.E **Accessory Uses.** In all districts not named in 2005.D, property owners may establish accessory uses on a lot in accordance with the standards below:

- (1) The sum of accessory uses must not exceed 33% of the total gross floor area of the principal building or 5,000 square feet, whichever is less.
- (2) An accessory use must be a permitted or conditional use in the applicable district, or must be specifically authorized as an allowed accessory use to a given principal use in these regulations. Accessory uses identified as a conditional use in the applicable district are subject to conditional use review and approval by the Development Review Board.
- (3) The standards of this subsection do not apply to accessory dwellings, home occupations, home offices, home businesses, and agricultural enterprises.

### **Section 2006. Dimensional Standards**

2006.A **Applicability.** Land development must conform to the dimensional standards for the applicable zoning district unless:

- (1) A subject lot or structure is a nonconformity and the proposed land development is in conformance with the requirements of Chapter 130;
- (2) The applicant receives a waiver (Section 4604) or variance (Section 4605) to a dimensional standard from the Development Review Board; or
- (3) The proposed land development will be approved as a planned unit development in accordance with the provisions of Chapter 350 and Chapter 440.

## **Town of Milton Unified Development Regulations • Part 2. Zoning Districts and Standards**

2006.B **Principal Buildings.** Property owners may locate more than one principal building on a lot located in one of the districts listed in Subsection 2005.D in accordance with the standards below. In all other districts, the Town of Milton only allows one principal building on a lot unless approved as part of a planned unit development in accordance with the provisions of Chapter 350 and Chapter 440.

- (1) The total amount of development on the lot must not exceed the maximum density allowed in the district. A lot that includes land in more than one zoning district must not exceed the total maximum density allowed by the district for each part of the lot that includes land in a separate district.
- (2) Not more than one detached single -family dwelling or duplex may be located on any lot unless approved as part of a planned unit development in accordance with the provisions of Chapter 350 and Chapter 440.
- (3) Each building must meet the applicable dimensional standards of the zoning district in which it is located. A principal building on a lot that includes land in more than one zoning district must meet the dimensional requirements for the district in which the building is principally located, but such buildings must not extend more than 100 feet into any district.
- (4) The distance between new buildings or between a new building and an existing building must not be less than twice the side setback required in the zoning district, unless they are attached.
- (5) Approval of multiple principal buildings on a lot will not constitute a right to subdivide or separately convey those structures except:
  - (a) If land can be subdivided in accordance with these regulations; or
  - (b) If the property will be lawfully converted to condominium ownership, which may include the subdivision of footprint lots.

2006.C **Accessory Structures.** Property owners may locate accessory structures on a lot in accordance with the standards below:

- (1) Accessory structures must meet the minimum front setback requirements for the district they are located in.
- (2) Accessory structures:
  - (a) With a footprint of not more than 120 square feet and a height of not more than 10 feet must be set back at least 5 feet from rear and side property lines, or the minimum setback requirements for the district they are located, whichever is less.
  - (b) With a footprint in excess of 120 square feet or a height in excess of 10 feet be set back at least 15 feet from rear and side property lines, or the minimum setback requirements for the district they are located, whichever is less.
- (3) Accessory structures must be located at least 5 feet from any other structure unless they are attached to that structure.

2006.D **Lot Size.** Lot size will be regulated in accordance with the following:

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- (1) Any lot created under these regulations must meet the minimum lot size requirement for the district in which it is located unless approved as part of a planned unit development in accordance with the provisions of Chapter 350 and Chapter 440.
- (2) Any lot created under these regulations must not have a depth (perpendicular to the frontage) greater than three times the width of the frontage.
- (3) A pre-existing small lot may be developed in accordance with Section 1301 irrespective of whether it will comply with the minimum lot size standard for the applicable district.
- (4) An existing lot must not be reduced in size below the minimum lot size requirement for the district in which it is located unless the reduction is the result of land being acquired for a public purpose (ex. road widening).
- (5) A lot that will include land in more than one zoning district must meet the minimum lot size requirement for the district that the portion of the lot in which the street frontage or road access is located. If the lot has street frontage in more than one zoning district, then the lot must meet the largest minimum lot size requirement.

2006.E **Road Frontage.** All lots must front on a public or private road as specified in each zoning district and in accordance with the following:

- (1) **Pre-Existing Lots.** An existing lot without the minimum required frontage on a maintained public or private road must have access to such a road over an easement or right-of-way not less than 40 feet wide for single-and two-family residential lots and 60 feet wide for all other lots.
- (2) **Corner Lots.** Lots that front on more than one road will only be required to meet minimum frontage requirements on the road(s) from which the lot is accessed.
- (3) **New Lots.** All new lots created under these regulations must have the minimum frontage on a maintained public or private road unless the Development Review Board:
  - (a) Determines that, in accordance with Section 3002, the lot is accessed by a driveway that will serve no more than a total of 3 lots, 3 principal buildings on a lot, or up to 50 dwelling units on one lot (subject to the maximum density requirements in the zoning district), whichever is the most restrictive;
  - (b) Approves a lot with less frontage as part of a planned unit development in accordance with the provisions of Chapter 350 and Chapter 440;
  - (c) Approves a waiver to reduce the frontage requirement to not less than 15 feet for irregularly shaped lots (only one such waiver may be granted for a lot within any 10 year period subdivided from a parent parcel); or
  - (d) Approves a waiver to reduce or eliminate the frontage requirement for lots restricted to agriculture, forestry or open spaces uses through a legally enforceable and permanent means such as a conservation easement. Such lots must still have permanent access to a public or private road over an easement or right-of way not less than 20 feet wide.
- (4) **Class 4 Roads.** See Section 3001 regarding access to property from Class 4 town highways.

## **Town of Milton Unified Development Regulations • Part 2. Zoning Districts and Standards**

2006.F **Setbacks.** All land development and structures subject to these regulations must be set back from roads, property lines and water bodies as specified in each zoning district unless otherwise specified in these regulations. Lots with frontage on more than one road must meet front setback requirements on each road, and must meet side and rear setbacks requirements on the remaining sides.

2006.G **Height.** No structure subject to these regulations may exceed district height limits as specified below unless otherwise specified in these regulations:

- (1) Minimum and/or maximum height requirements for principal buildings are established for each zoning district.
- (2) Accessory structures must not exceed a height of 35 feet or the height of the associated principal building, whichever is less.
- (3) Height limits do not apply to:
  - (a) Belfries, spires, steeples, cupolas, domes or similar architectural features not used for human habitation; and
  - (b) Skylights, parapet walls, cornices, chimneys, ventilators, bulkheads, or mechanical equipment usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning.
- (4) Height limits do apply to flag poles, light poles, signs and similar freestanding structures not located within public rights-of-way.
- (5) Where a minimum building height is specified in the zoning district:
  - (a) Buildings with a footprint of less than 6,000 square feet must meet the minimum height requirement along the entire width of the building and for a depth of at least 30 feet or the depth of the building, whichever is less.
  - (b) Buildings with a footprint of 6,000 square feet or more must meet the minimum height requirement along at least 30% of the width of the building and for a depth of at least 30 feet or depth of the building, whichever is less.
- (6) When height is measured in feet, the measurement will be taken from the average finished grade at ground level to the highest point on the structure excluding the building elements listed in Paragraph (3) above.
- (7) When building height is measured in stories, the following will apply:
  - (a) For residential buildings, a story must be at least 8 feet and no more than 16 feet in height from finished floor to finished ceiling.
  - (b) For nonresidential or mixed-use buildings, the first story must be at least 12 feet and no more than 24 feet in height from finished floor to finished ceiling. Upper stories must be at least 8 feet and no more than 16 feet from finished floor to finished ceiling. The Development Review Board may approve a waiver to allow for increased story height to accommodate a particular commercial or industrial function.
  - (c) Below-grade parking levels will not count as a story.

**Section 2007. Density Standards**

2007.A **Calculating Density.** Each zoning district establishes the maximum density of development allowed on a lot. Those standards will be measured or calculated as described in this subsection.

- (1) **Buildable Lot Area.** Density will be measured based on the total amount of buildable land on a lot, which excludes any lot area characterized by or containing the following:
  - (a) Class 1 and Class 2 wetlands and wetland buffers according to state rules;
  - (b) Slopes in excess of 25%;
  - (c) Surface waters and riparian buffers according to state rules;
  - (d) Flood hazard and earth movement hazard areas; and
  - (e) Easements or rights-of way that restrict development of buildings (excluding easement for pedestrian access).
- (2) **Residential Development.** The density of residential development will be measured in dwelling units (DUs) per acre or square footage of buildable lot area (1 acre = 43,560 square feet). Where the calculation is fractional the number of dwelling units will be rounded to the nearest whole number.
- (3) **Waivers or Variances.** The Town of Milton does not consider maximum density to be a dimensional standard that can be modified through the approval of a waiver or variance under Section 4604 or Section 4605 of these regulations.

2007.B **Residential Density.** The number of dwelling units on a lot must not exceed the maximum density specified in each zoning district except:

- (1) The Development Review Board may grant a density bonus not to exceed 150% of the density specified in the zoning district as calculated in Section 2007.A for:
  - (a) Upper floor residential and retirement housing uses in the DB1, NC1, NC2, and M2 zoning districts where the number of 1-bedroom dwelling units not exceeding 775 square feet in gross floor area is not less than 65% of the total number of units (calculation must include the bonus units rounded up to the nearest whole number). To be eligible for this bonus, the applicant must provide the following: a building lobby with seating area and exterior windows that must be at least 500 square feet and not less than 15 feet in any dimension; washer/dryer connections within each dwelling unit; structured outdoor recreation space (such as a pool, rooftop terrace, community grill, tennis court, children's play area or dog play area); and furnished indoor recreation space with exterior windows that must be at least 500 square feet and not less than 15 feet in any dimension (such as a community gathering room or outfitted gym).
  - (b) A cottage cluster planned unit development in accordance with Section 3502.
  - (c) The provision of public access or dedication (such as a road, recreation path right-of-way, parkland, utility rights-of-way, and other public improvements) that the Development Review Board finds furthers specific goals in the Town Comprehensive Plan. In granting the bonus density, a legally binding agreement between the developer and the Town must be made contingent upon the finalization of the development in the form of an offer of dedication. Such offers, in draft form, must be submitted with the final application and include provisions for

improvement to the site made by the developer deemed warranted by the Development Review Board.

- (2) Accessory dwellings approved under Section 1110 will not count as a dwelling unit for the purposes of calculating density.
- (3) Any single-family dwelling on a conforming lot connected to town water and sewer may be converted to a duplex irrespective of the district density standard if a duplex is a permitted use in the zoning district and provided that all other applicable standards of these regulations are met.
- (4) A pre-existing small lot may be developed in accordance with Section 1301 irrespective of whether it will comply with the residential density standard for the applicable district.

## Chapter 210. Base Zoning Districts

### Section 2101. Downtown Business (DB1) District

2101.A **Purpose.** The purpose of the Downtown Business District is to designate and reinforce this area as Milton's downtown by:

- (1) Establishing a well-defined, mixed-use, compact and walkable downtown centered around the intersection of Route 7, Railroad Street and Middle Road.
- (2) Featuring the highest density of development and the greatest diversity of land uses in an area that is served by public infrastructure and transit.
- (3) Transforming Route 7, Middle Road, Centre Drive and Bombardier Road into "main streets" defined by sidewalks, crosswalks, street trees and landscaping, and pedestrian-oriented buildings located close to the street and sidewalk.
- (4) Promoting pedestrian-oriented infill along street frontages and within underutilized lots.
- (5) Developing an interconnected network of complete streets that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (6) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2101.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited. In addition, the following apply to the uses allowed in this district:

- (1) The applicant must obtain conditional use approval from the Development Review Board before the Zoning Administrator may issue a permit for:
  - (a) Construction of 6,000 square feet or more of commercial or industrial space;
  - (b) A mixed-use development containing 6 or more dwelling units; or
  - (c) A use with drive-through or drive-in service (see Section 3012).
- (2) Upper floor residential will only be allowed within mixed-use buildings where the first 30 feet (as measured from the front wall of the building into the building's interior) of the street-facing facade on the ground level floor is designed for and occupied by commercial uses as follows:
  - (a) If the upper floor residential will be retirement housing, the entire ground level may be used for non-residential purposes accessory to the retirement housing such as common areas, support services or offices.
  - (b) The building must locate and design any under-building parking to maintain a pedestrian-oriented streetscape. Under-building parking that is not entirely below ground level along the street must be set back at least 30 feet from the building front line and screened by active uses so that parking will not be visible from the street.
- (3) The Town of Milton will treat any single-family or two-family dwelling in existence prior to October 11, 2005 as a permitted use. New single-family or two-family dwellings are prohibited.

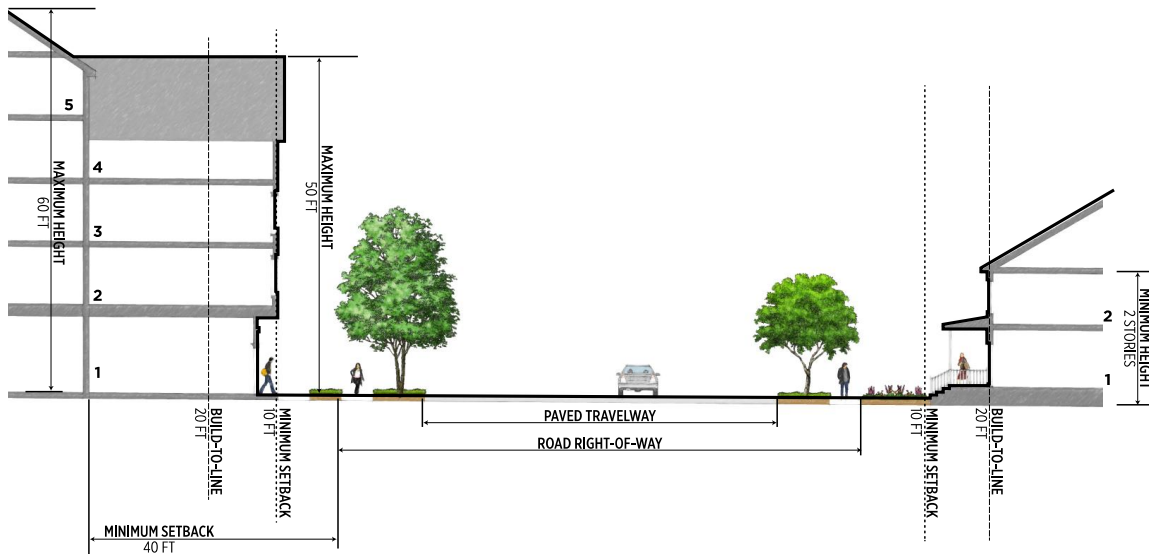


## Town of Milton Unified Development Regulations • Part 2. Zoning Districts and Standards

2101.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

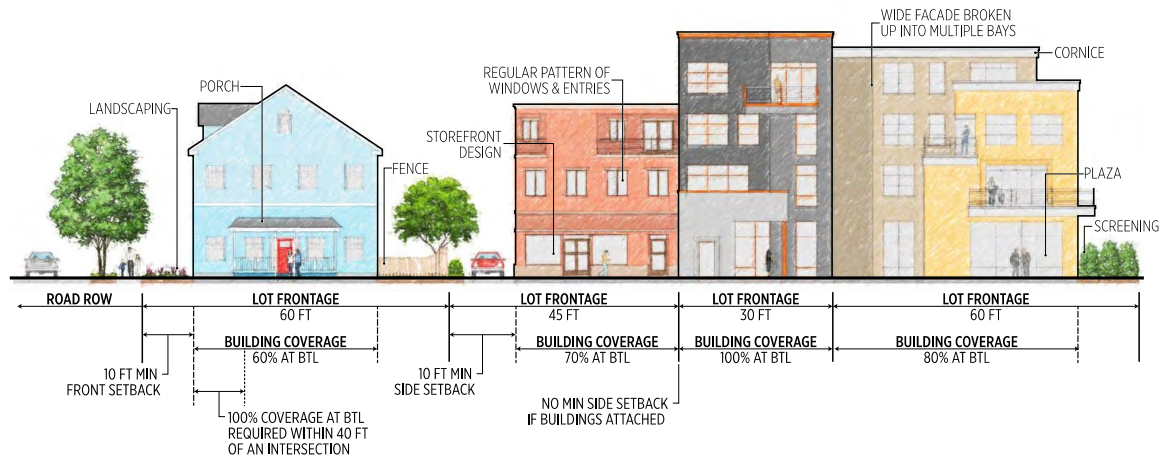
- |                         |  |
|-------------------------|--|
| (1) Lot size            | 4,500 sf min   |
| (2) Lot frontage        | 30 ft min  |
| (3) Lot coverage        | 80% max (includes all impervious surfaces)   |
| (4) Front setback       | 10 ft min<br>20 ft min from principal bldg frontline for accessory bldgs   |
| (5) Build-to line (BTL) | 20 ft  |
| (6) Side setback        | 10 ft min or 0 ft if buildings attached  |
| (7) Rear setback        | 10 ft min  |
| (8) Residential density | 1 dwelling unit per 2,100 sf of lot area max<br>(also see Paragraph 2101.D(4) below)   |
| (10) Building height    | 50 ft max within 40 ft of front lot line or district boundary<br>60 ft max beyond 40 ft from front lot line or district boundary<br>35 ft max and less than principal bldg for accessory bldgs |
| (11) Building coverage  | 60% min of BTL<br>30% min of BTL on secondary street (for corner buildings)<br>100% min of BTL within 40 ft of a street intersection   |

### DOWNTOWN BUSINESS DISTRICT PROPOSED DIMENSIONAL STANDARDS



## Town of Milton Unified Development Regulations • Part 2. Zoning Districts and Standards

### DOWNTOWN BUSINESS DISTRICT PROPOSED DIMENSIONAL & DEVELOPMENT STANDARDS



2101.D **Development Standards.** The applicant must locate and design proposed development as follows:

- (1) New or substantially modified principal buildings must be oriented to the street with facades that incorporate at least one of the following:
  - (a) A storefront design with clear glass windows offering views into the building interior composing a minimum of 60% of the ground level wall area up to 10 feet above the finished grade.
  - (b) An open porch, gallery or arcade at least 6 feet deep. A gallery or arcade must extend the full width of the facade. A porch must extend along at least 40% of the facade.
  - (c) A landscaped patio, terrace, plaza, courtyard or pocket park adjoining the sidewalk offering outdoor seating or dining. The area of this feature must equal or exceed the width of the building facade multiplied by 5 feet.
  - (d) For residential buildings, a decorative fence or wall not more than 4 feet high along the lot frontage, a landscaped front yard and a walkway leading to a front entrance that faces the street.
  - (e) For civic or religious buildings, other distinctive architectural elements characteristic of such building types.
- (2) New or substantially modified principal buildings must:
  - (a) Incorporate visible changes in wall plane and roof form that break up wide facades into multiple bays. A bay must not be more than 32 feet wide.
  - (b) Incorporate a cornice or roof overhang.
  - (c) Feature a regular pattern of windows and entries on the facade. Stretches of solid or blank walls between windows or entries must not be more than 20 feet wide.
  - (d) Incorporate at least one ground-level entrance for each 60 feet of building facade width. The distance between ground-level entrances along a single, continuous facade must not be more than 80 feet.

## **Town of Milton Unified Development Regulations • Part 2. Zoning Districts and Standards**

- (e) Provide pedestrian access from the public sidewalk or street to ground-level entrance(s) on the facade.
  - (f) Locate vehicular and service entrances to the side or rear, except that the Development Review Board may approve front entrances for structured or under-building parking.
- (3) Any land development that requires major site plan approval must:
  - (a) Eliminate or relocate any pre-existing parking or vehicular use areas between the street and building to the maximum extent feasible given site-specific conditions. All new parking or vehicular use areas must be located to the side or rear of the principal building.
  - (b) Landscape the area between the street and building so that at least 20% of the ground will be covered with a mix of trees, shrubs, perennial plants and groundcovers (excluding turf grass) within 4 growing seasons.
  - (c) Plant or preserve at least one healthy tree within the front yard setback for each 30 feet of road frontage.
- (4) New mixed-use buildings must:
  - (a) Allocate at least 20% of their floor area to non-residential uses.
  - (b) Locate all dwelling units on upper floors.
  - (c) Not contain more than 40 dwelling units per building.
  - (d) Locate and design any under-building parking to maintain a pedestrian-oriented streetscape. Under-building parking that is not entirely below ground level along the street must be set back at least 30 feet from the building front line and screened by active uses so that parking will not be visible from the street.

**Section 2102. Checkerberry Neighborhood Center (NC1) District**

2102.A **Purpose.** The purpose of the Checkerberry Neighborhood Center District is to foster development of a compact, mixed-use cluster of neighborhood-serving businesses within the Checkerberry area by:

- (1) Accommodating small-scale businesses that will provide basic goods and services that nearby residents can access by walking or biking.
- (2) Accommodating higher-density and mixed-use development in areas that are served by public infrastructure and transit, and that is close to schools, shopping, services and public recreation facilities.
- (3) Transforming Route 7 into a safe and attractive highway corridor through improved access management, streetscaping, pedestrian and bicycle facilities, lighting and signage.
- (4) Minimizing the amount and visual impact of parking located in front of buildings.
- (5) Avoiding and mitigating potential conflicts between land uses so that the off-site impacts of commercial uses do not adversely affect quality of life for nearby residents.
- (6) Developing an interconnected network of complete streets that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (7) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2102.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited. In addition, the following apply to the uses allowed in this district:

- (1) The applicant must obtain conditional use approval from the Development Review Board before the Zoning Administrator may issue a permit for:
  - (a) Construction of 6,000 square feet or more of commercial or industrial space (includes the total gross floor area of all buildings, and any outdoor storage and display areas); or
  - (b) A use with drive-through or drive-in service (see Section 3012).
- (2) The Town of Milton will treat any single-family or two-family dwelling in existence prior to October 11, 2005 as a permitted use.
- (3) The Town of Milton will only allow new dwelling units as a second principal use on a lot with a principal, conforming nonresidential use as follows:
  - (a) New residential building floor area must not exceed 80% of the building floor area.
  - (b) New residential building area must be located on upper floors or to the rear of the lot, whether attached to or detached to another building, to maintain commercial uses close to the street frontage.
- (4) Upper floor residential will only be allowed within mixed-use buildings where the first 30 feet (as measured from the front wall of the building into the building's interior) of the street-facing façade on the ground level floor is designed for and occupied by commercial uses as follows:

## **Town of Milton Unified Development Regulations • Part 2. Zoning Districts and Standards**

- (a) If the upper floor residential will be retirement housing, the entire ground level may be used for non-residential purposes accessory to the retirement housing such as common areas, support services or offices.
- (b) The building must locate and design any under-building parking to maintain a pedestrian-oriented streetscape. Under-building parking that is not entirely below ground level along the street must be set back at least 30 feet from the building front line and screened by active uses so that parking will not be visible from the street.

**2102.C Dimensional Standards.** The applicant must locate and design proposed development as follows:

- (1) Lot size                      6,000 sf min
- (2) Lot frontage                45 ft min
- (3) Lot coverage                70% max (includes all impervious surfaces)
- (4) Front setback               10 ft min, 80 ft max
- (5) Side setback                10 ft min
- (6) Rear setback                10 ft min
- (7) Residential density        1 dwelling unit per 3,000 sf of lot area max
- (9) Building height            45 ft max
- Building coverage        60%

**2102.D Development Standards.** The applicant must locate and design proposed development as follows:

- (1) New or substantially modified principal buildings must:
  - (a) Avoid large box-like forms with continuous unrelieved surfaces by incorporating articulation to reduce buildings' perceived bulk.
  - (b) Limit overall building size or design buildings with features to break up building bulk, such as changes in wall plane (instead of a long flat wall), changes in roof form and height, or major full-height recesses (typically at least 8 feet deep) along the length of the building that successfully break the building into smaller discrete masses (typically not more than 40 feet wide).
  - (c) Have window recesses, window trim, doorways, columns, overhangs and other architectural elements with depth adequate to create shadow and architectural relief.
  - (d) Have facades that provide a pedestrian scale and orientation through overhangs, eaves, awnings, display windows and architectural ornamentation.
  - (e) Emphasize public building entrances with architectural and landscape treatment.
- (2) Any land development that requires major site plan approval must:
  - (a) Eliminate excess paving within the minimum front yard setback (typically any paving in excess of 800 square feet unless additional pavement is necessary to provide access to pre-existing parking).
  - (b) Limit the amount of parking located in front of the building to not more than 2

rows. Where pre-existing front parking in excess of that cannot be eliminated or relocated, it must be screened from the street to the maximum extent feasible given the configuration of development and natural site conditions on the lot.

- (c) Landscape the area between the street and building so that at least 20% of the ground will be covered with a mix of trees, shrubs, perennial plants and groundcovers (excluding turf grass) within 3 growing seasons.
  - (d) Plant or preserve at least one tree within the front yard setback for each 30 feet of road frontage.
  - (e) Locate new or expanded outdoor storage or display areas to the side or rear of the building.
  - (f) Locate new loading areas or docks, vehicular or service entrances, waste collection areas, dumpsters and similar utilitarian elements to the rear or side of the building and screened from view at the front property line.
  - (g) Locate new mechanical equipment, electrical meter and service components, satellite dishes, heating and cooling units, ventilation equipment and similar utility devices so that they will be screened from view at the front property line to the maximum extent feasible, and if adequate screening is not possible use materials and colors that will camouflage the device.
- (3) New mixed-use buildings or mixed-use lots must:
- (a) Allocate at least 20% of their total building floor area to non-residential uses.
- (4) New multi-family residential buildings must:
- (a) Not contain more than 20 dwelling units, or more than 30 if granted a bonus density;
  - (b) Incorporate visible changes in wall plane and roof form that break up wide facades into multiple bays;
  - (c) Incorporate a cornice or roof overhang;
  - (d) Be designed so that windows, porches, balconies and entryways comprise at least 30% of the length of front elevation on each floor.

**Section 2103. Historic Neighborhood Center (NC2) District**

2103.A **Purpose.** The purpose of the Historic Neighborhood Center District is to foster development of a compact, mixed-use cluster of neighborhood-serving businesses and upper floor housing in the historic center of the town core by:

- (1) Accommodating small-scale businesses that will provide basic goods and services that residents in nearby neighborhoods can access by walking or biking.
- (2) Accommodating higher-density, mixed-use development in areas that are served by public infrastructure and transit, and that is close to schools, shopping, services and public recreation facilities.
- (3) Transforming Route 7 into a safe and attractive highway corridor through improved access management, streetscaping, pedestrian and bicycle facilities, lighting and signage.
- (4) Bringing buildings to the street and locating parking to the side or rear of buildings to the maximum extent feasible.
- (5) Avoiding and mitigating potential conflicts between land uses so that the off-site impacts of commercial uses do not adversely affect quality of life for nearby residents.
- (6) Developing an interconnected network of complete streets that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (7) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs that are compatible with the historic character of the district and the adjoining Main Street corridor.

2103.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited. In addition, the following apply to the uses allowed in this district:

- (1) The applicant must obtain conditional use approval from the Development Review Board before the Zoning Administrator may issue a permit for:
  - (a) Construction of 4,500 square feet or more of commercial or industrial space (includes the total gross floor area of all buildings, and any outdoor storage and display areas); or
  - (b) A use with drive-through or drive-in service (see Section 3012).
- (2) The Town of Milton will treat any solely residential building in existence prior to October 11, 2005 as a permitted use. Additional units may be developed within any solely residential building in existence prior to October 11, 2005 in accordance with the density requirements of this district provided that there will be no increase in the exterior dimensions of the building.
- (3) The Town of Milton will only allow new dwelling units as a second principal use on a lot with a principal, conforming nonresidential use as follows:
  - (a) New residential building floor area must not exceed 80% of the building floor area.
  - (b) New residential building area must be located on upper floors or to the rear of the lot, whether attached to or detached from another building, to maintain commercial uses close to the street frontage.

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- (4) Upper floor residential will only be allowed within mixed-use buildings where the first 30 feet (as measured from the front wall of the building into the building's interior) of the street-facing façade on the ground level floor is designed for and occupied by commercial uses as follows:
  - (a) If the upper floor residential will be retirement housing, the entire ground level may be used for non-residential purposes accessory to the retirement housing such as common areas, support services or offices.
  - (b) The building must locate and design any under-building parking to maintain a pedestrian-oriented streetscape. Under-building parking that is not entirely below ground level along the street must be set back at least 30 feet from the building front line and screened by active uses so that parking will not be visible from the street.

2103.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |                         |  |
|-------------------------|--|
| (1) Lot size            | 3,000 sf min                                 |
| (2) Lot frontage        | 45 ft min                                    |
| (3) Lot coverage        | 75% max (includes all impervious surfaces)   |
| (4) Front setback       | 10 ft min, 30 ft max                         |
| (5) Side setback        | 10 ft min                                    |
| (6) Rear setback        | 10 ft min                                    |
| (7) Residential density | 1 dwelling unit per 3,000 sf of lot area max |
| (9) Building height     | 45 ft max                                    |
| Building Coverage       | 65%  |

2103.D **Development Standards.** The applicant must locate and design proposed development as follows:

- (1) New or substantially modified principal buildings must:
  - (a) Be compatible with the architectural form, scale, massing and materials of historic buildings found in this district and the adjoining Main Street corridor.
  - (b) Not be standardized franchise or corporate architectural designs.
  - (c) Avoid large box-like forms with continuous unrelieved surfaces by incorporating articulation to reduce buildings' perceived bulk.
  - (d) Limit overall building size or design buildings with features to break up building bulk such as changes in wall plane (instead of a long flat wall), changes in roof form and height, or major full-height recesses (typically at least 8 feet deep) along the length of the building that successfully break the building into smaller discrete masses (typically not more than 40 feet wide).
  - (e) Have window recesses, window trim, doorways, columns, overhangs and other architectural elements with depth adequate to create shadow and architectural relief.
  - (f) Have facades that provide a pedestrian scale and orientation through overhangs,



eaves, awnings, display windows and architectural ornamentation.

- (g) Emphasize public building entrances with architectural and landscape treatment.
  - (h) Incorporate into the building facade either: (i) a storefront design with clear glass windows offering views into the building interior composing a minimum of 60% of the ground-level wall area up to 10 feet above the finished grade; or (ii) an open porch, gallery or arcade at least 6 feet deep that must extend along no less than 50% of the facade.
- (2) Any land development that requires major site plan approval must:
- (a) Eliminate excess paving within the minimum front yard setback (typically any paving in excess of 800 square feet unless additional pavement is necessary to provide access to pre-existing parking).
  - (b) Locate any new parking areas to the side or rear of the building, and eliminate or relocate pre-existing parking in front of buildings whenever feasible. Where pre-existing front parking cannot be eliminated or relocated, it must be screened from the street to the maximum extent feasible given the configuration of development and natural site conditions on the lot.
  - (c) Landscape the area between the street and building so that at least 20% of the ground will be covered with a mix of trees, shrubs, perennial plants and groundcovers (excluding turf grass) within 3 growing seasons.
  - (d) Plant or preserve at least one healthy tree within the front yard setback for each 30 feet of road frontage.
  - (e) Locate new or expanded outdoor storage or display areas to the side or rear of the building.
  - (f) Locate new loading areas or docks, vehicular or service entrances, waste collection areas, dumpsters and similar utilitarian elements to the rear or side of the building and screened from view at the front property line.
  - (g) Locate new mechanical equipment, electrical meter and service components, satellite dishes, heating and cooling units, ventilation equipment and similar utility devices so that they will be screened from view at the front property line to the maximum extent feasible, and if adequate screening is not possible use materials and colors that will camouflage the device.
- (3) New multi-family residential buildings must:
- (a) Not contain more than 15 dwelling units;
  - (b) Incorporate visible changes in wall plane and roof form that break up wide facades into multiple bays; and
  - (c) Incorporate a cornice or roof overhang.

**Section 2104. Milton Crossroads Marketplace Center (M1) District**

2104.A **Purpose.** The purpose of the Milton Crossroads Marketplace Center is to foster development of a compact, mixed-use cluster transitioning from the DB1 to the adjacent R1 and M5 by:

- (1) Accommodating small-scale businesses that will provide basic goods and services and that residents in nearby neighborhoods can access by walking or biking.
- (2) Accommodating higher-density, mixed-use development (particularly along US Route 7) in areas that are served by public infrastructure and transit, and that is close to schools, shopping, services and public recreation facilities.
- (3) Transforming Route 7 into a safe and attractive highway corridor through improved access management, streetscaping, pedestrian and bicycle facilities, lighting and signage.
- (4) Bringing buildings to the street and locating parking to the side or rear of buildings to the maximum extent feasible.
- (5) Avoiding and mitigating potential conflicts between land uses so that the off-site impacts of commercial uses do not adversely affect quality of life for nearby residents.
- (6) Developing an interconnected network of complete streets that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (7) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs that are compatible with the character of the area.

2104.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited. In addition, the following apply to the uses allowed in this district:

- (1) Upper floor residential will only be allowed within mixed-use buildings where the first 30 feet (as measured from the front wall of the building into the building's interior) of the front-facing façade on the ground level floor is designed for and occupied by commercial uses as follows:
  - (a) If the upper floor residential will be retirement housing, the entire ground level may be used for non-residential purposes accessory to the retirement housing such as common areas, support services or offices.
  - (b) The building must locate and design any under-building parking to maintain a pedestrian-oriented streetscape. Under-building parking that is not entirely below ground level along the street must be set back at least 30 feet from the building front line and screened by active uses so that parking will not be visible from the street.

2104.C **Development Standards.** The applicant must locate and design proposed development as follows:

- (1) New multi-family residential buildings must:
  - (a) Not contain more than 12 dwelling units;
  - (b) Incorporate visible changes in wall plane and roof form that break up wide facades into multiple bays; and

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- (c) Incorporate a cornice or roof overhang.

2104.D **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- (1) Lot size 5,000 sf min
- (2) Lot frontage 50 ft min
- (3) Lot coverage 60% max
- (4) Front setback 10 ft min to 20 ft max
- (5) Side setback 10 ft min
- (6) Rear setback 10 ft min
- (7) Residential density 1 dwelling unit per 5,000 sf of lot area max
- (9) Building coverage 50% max
- (10) Building height 40 ft max.

**Section 2105. Milton Crossroads Marketplace West (M2) District**

2105.A **Purpose.** The purpose of the Milton Crossroads Marketplace Center is to foster development of a compact, mixed-use cluster transitioning from the DB1 to the adjacent R1 and M4R by:

- (1) Accommodating large and small-scale businesses that will provide basic goods and services and that residents in nearby neighborhoods can access by walking or biking.
- (2) Accommodating higher-density, mixed-use development in areas that are served by public infrastructure and transit, and that is close to schools, shopping, services and public recreation facilities.
- (3) Transforming Haydenberry Drive into a safe and attractive highway corridor through improved access management, streetscaping, pedestrian and bicycle facilities, lighting and signage.
- (4) Bringing buildings to the street and locating parking to the side or rear of buildings to the maximum extent feasible.
- (5) Avoiding and mitigating potential conflicts between land uses so that the off-site impacts of commercial uses do not adversely affect quality of life for nearby residents.
- (6) Developing an interconnected network of complete streets and pathways that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (7) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs that are compatible with the character of the area.

2105.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited. In addition, the following apply to the uses allowed in this district:

- (1) Upper floor residential will only be allowed within mixed-use buildings where the first 30 feet (as measured from the front wall of the building into the building's interior) of the front-facing façade on the ground level floor is designed for and occupied by commercial uses as follows:
  - (a) If the upper floor residential will be retirement housing, the entire ground level may be used for non-residential purposes accessory to the retirement housing such as common areas, support services or offices.
  - (b) The building must locate and design any under-building parking to maintain a pedestrian-oriented streetscape. Under-building parking that is not entirely below ground level along the street must be set back at least 30 feet from the building front line and screened by active uses so that parking will not be visible from the street.

2105.C **Development Standards.** The applicant must locate and design proposed development as follows:

- (1) New multi-family residential buildings must:
  - (a) Not contain more than 12 dwelling units;
  - (b) Incorporate visible changes in wall plane and roof form that break up wide facades into multiple bays; and

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(c) Incorporate a cornice or roof overhang.

2105.D **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |      |                     |   |
|------|---------------------|---|
| (1)  | Lot size            | 5,000 sf min                              |
| (2)  | Lot frontage        | 50 ft min                                 |
| (3)  | Lot coverage        | 70% max                                   |
| (4)  | Front setback       | 10 ft min to 20 ft max                    |
| (5)  | Side setback        | 10 ft min                                 |
| (6)  | Rear setback        | 10 ft min                                 |
| (7)  | Residential Density | 1 dwelling unit per 5,000 of lot area max |
| (9)  | Building coverage   | 60% max                                   |
| (10) | Building height     | 40 ft max.                                |

**Section 2106. Milton Crossroads Marketplace Municipal/Recreation (M3) District**

2106.A **Purpose.** The purpose of the Milton Crossroads Marketplace Municipal/Recreation district is to foster develop a cluster of community institutions and recreational uses by: :

- (1) Accommodating essential services, transit, education, government, healthcare, and other community institutions that residents in nearby neighborhoods can access by walking or biking.
- (2) Accommodating large entertainment and recreational uses and small-scale commercial uses that principally support institutional and recreational uses.
- (3) Accommodating development in areas that are served by public infrastructure and transit, and that is close to schools, shopping, services and public recreation facilities.
- (4) Transforming Bombardier Drive and Middle Road into a safe and attractive highway corridor through improved access management, streetscaping, pedestrian and bicycle facilities, lighting and signage.
- (5) Bringing buildings to Bombardier and Middle Roads and locating parking to the side or rear of buildings to the maximum extent feasible.
- (6) Avoiding and mitigating potential conflicts between land uses so that the off-site impacts of uses do not adversely affect quality of life for nearby residents.
- (7) Developing an interconnected network of complete streets and pathways that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (8) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs that are characteristic of civic buildings.

2106.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited.

2106.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |     |                 |                        |
|-----|-----------------|------------------------|
| (1) | Lot size        | 5,000 sf min           |
| (2) | Lot frontage    | 50 ft min              |
| (3) | Lot coverage    | 70% max                |
| (4) | Front setback   | 10 ft min to 20 ft max |
| (5) | Side setback    | 10 ft min              |
| (6) | Rear setback    | 10 ft min              |
| (7) | Building height | 45 ft max              |

**Section 2107. Checkerberry Commercial (M4-C) District**

2107.A **Purpose.** The purpose of the Checkerberry Commercial District is to help strengthen the role of the town core as an employment and service center with a diversity of businesses by:

- (1) Accommodating commercial and light industrial uses in a transitional area distinct from downtown and industrial park uses in an area extending out from the downtown business district that is served by public infrastructure and transit.
- (2) Transforming Route 7 into a safe and attractive highway corridor through improved access management, streetscaping, pedestrian and bicycle facilities, lighting and signage.
- (3) Minimizing the amount and visual impact of parking located in front of buildings.
- (4) Avoiding and mitigating potential conflicts between land uses so that the off-site impacts of commercial uses do not adversely affect quality of life in nearby residential neighborhoods.
- (5) Developing an interconnected network of complete streets that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (6) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2107.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited. In addition, the following apply to the uses allowed in this district:

- (1) The applicant must obtain conditional use approval from the Development Review Board before the Zoning Administrator may issue a permit for:
  - (a) Construction of 8,000 square feet or more of commercial or industrial space (includes the total gross floor area of all buildings, and any outdoor storage and display areas);
  - (b) A use with drive-through or drive-in service (see Section 3012); or
- (2) The Town of Milton will treat any single-family or two-family dwelling in existence prior to October 11, 2005 as a permitted use. New single-family or two-family dwellings are prohibited.
- (3) Child day care facilities must be located on a site with at least one other principal use or must be an accessory use.

2107.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- (1) Lot size 13,500 sf min
- (2) Lot frontage 90 ft min
- (3) Lot coverage 70% max (includes all impervious surfaces)
- (4) Front setback 20 ft min to 90 ft max.
- (5) Side setback 10 ft min
- (6) Rear setback 10 ft min
- (7) Floor area ratio 1.5 max
- (8) Building height 40 max

2107.D **Development Standards.** The applicant must locate and design proposed development as follows:

- (1) New or substantially modified principal buildings must:
  - (a) Avoid large box-like forms with continuous unrelieved surfaces by incorporating articulation to reduce buildings' perceived bulk.
  - (b) Limit overall building size or design buildings with features to break up building bulk such as changes in wall plane (instead of a long flat wall), changes in roof form and height, or major full-height recesses (typically at least 8 feet deep) along the length of the building that successfully break the building into smaller discrete masses (typically not more than 40 feet wide).
  - (c) Have window recesses, window trim, doorways, columns, overhangs and other architectural elements with depth adequate to create shadow and architectural relief.
  - (d) Have facades that provide a pedestrian scale and orientation through overhangs, eaves, awnings, display windows and architectural ornamentation.
  - (e) Emphasize public building entrances with architectural and landscape treatment.
- (2) Any land development that requires major site plan approval must:
  - (a) Eliminate excess paving within the minimum front yard setback (typically any paving in excess of 800 square feet unless additional pavement is necessary to provide access to pre-existing parking).
  - (b) Limit the amount of parking located in front of the building to not more than 2 rows. Where pre-existing front parking in excess of that cannot be eliminated or relocated, it must be screened from the street to the maximum extent feasible given the configuration of development and natural site conditions on the lot.
  - (c) Landscape the area between the street and building so that at least 20% of the ground will be covered with a mix of trees, shrubs, perennial plants and groundcovers (excluding turf grass) within 3 growing seasons.
  - (d) Plant or preserve at least one tree within the front yard setback for each 30 feet of road frontage.
  - (e) Locate new or expanded outdoor storage or display areas to the side or rear of the building.
  - (f) Locate loading areas or docks, vehicular or service entrances, waste collection areas, dumpsters and similar utilitarian elements to the rear or side of the building and screened from view at the front property line.
  - (g) Locate mechanical equipment, electrical meter and service components, satellite dishes, heating and cooling units, ventilation equipment and similar utility devices so that they will be screened from view at the front property line to the maximum extent feasible, and if adequate screening is not possible use materials and colors that will camouflage the device.



**Section 2108. Checkerberry Residential (M4-R) District**

2108.A **Purpose.** The purpose of the Checkerberry Residential District is to foster the development of compact residential neighborhoods that offer a diversity of housing and high quality of life in the town core by:

- (1) Accommodating new residential neighborhoods in areas that are served by public infrastructure and transit, and that are close to schools, shopping, services and public recreation facilities.
- (2) Avoiding and mitigating potential conflicts between land uses so that the off-site impacts of nearby commercial uses do not adversely affect residents' quality of life.
- (3) Stabilizing existing residential neighborhoods, and retaining existing and creating additional owner-occupied housing.
- (4) Developing an interconnected network of complete streets and pathways that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (5) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2108.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited. In addition, the following apply to the uses allowed in this district:

- (1) Multi-family development will be limited to a maximum of 8 dwelling units within any individual building.

2108.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |                         |  |
|-------------------------|--|
| (1) Lot size            | 6,000 sf min                                 |
| (2) Lot frontage        | 60 ft min                                    |
| (3) Lot coverage        | 60% max (includes all impervious surfaces)   |
| (4) Front setback       | 20 ft min to 30 ft max                       |
| (5) Side setback        | 15 ft min                                    |
| (6) Rear setback        | 15 ft min                                    |
| (7) Residential density | 1 dwelling unit per 6,000 sf of lot area max |
| (8) Building Coverage   | 50%  |
| (9) Building height     | 40 ft max                                    |

2108.D **Development Standards.** The applicant must locate and design multi-family development as follows:

- (1) New multi-family residential buildings must:
  - (a) Not contain more than 8 dwelling units.
  - (b) Incorporate visible changes in wall plane and roof form that break up wide facades into multiple bays. A bay must not be more than 32 feet wide.
  - (c) Incorporate a cornice or roof overhang.

**Section 2109. Old Towne Residential/Commercial (M5) District**

2109.A **Purpose.** The purpose of the Old Towne Residential/Commercial District is to foster the development of compact residential neighborhoods that offer a diversity of housing and high quality of life in the town core by:

- (1) Accommodating limited and small-scale businesses that will provide basic goods and services that residents in nearby neighborhoods can access by walking or biking.
- (2) Accommodating residential infill in areas that are served by public infrastructure and transit, and that is close to schools, shopping, services and public recreation facilities.
- (3) Avoiding and mitigating potential conflicts between land uses so that the off-site impacts of nearby commercial uses do not adversely affect residents' quality of life.
- (4) Stabilizing existing residential neighborhoods, and retaining existing and creating additional owner-occupied housing.
- (5) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2109.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited.

2109.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |      |                     |   |
|------|---------------------|---|
| (1)  | Lot size            | 10,000 sf min                                 |
| (2)  | Lot frontage        | 80 ft min                                     |
| (3)  | Lot coverage        | 50% max                                       |
| (5)  | Front setback       | 20 ft min                                     |
| (6)  | Side setback        | 10 ft min                                     |
| (7)  | Rear setback        | 10 ft min                                     |
| (8)  | Residential density | 1 dwelling unit per 10,000 sf of lot area max |
| (9)  | Building coverage   | 40% max                                       |
| (10) | Building height     | 35 ft max                                     |

**Section 2110. Main Street (M6) District**

2110.A **Purpose.** The purpose of the Main Street District is to foster development that maintains the character of a historic village neighborhood by:

- (1) Accommodating compatible residential infill in areas that are served by public infrastructure and transit, and that is close to schools, shopping, services and public recreation facilities.
- (2) Accommodating small-scale businesses and community institutions that will provide basic goods and services that residents in nearby neighborhoods can access by walking or biking.
- (3) Avoiding and mitigating potential conflicts between land uses so that the off-site impacts of nearby commercial uses do not adversely affect residents' quality of life.
- (4) Maintaining Main Street as a safe and attractive corridor through improved access management, streetscaping, pedestrian and bicycle facilities, lighting and signage.
- (5) Developing an interconnected network of pathways and sidewalks that safely accommodate pedestrians and bicyclists.
- (6) Stabilizing existing residential neighborhoods, and retaining existing and creating additional owner-occupied housing.
- (7) Bringing buildings to the street and locating parking to the side or rear of buildings to the maximum extent feasible.
- (8) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs that are compatible with the historic character of the district.

2110.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited.

2110.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |     |                     |   |
|-----|---------------------|---|
| (1) | Lot size            | 10,000 sf min                                 |
| (2) | Lot frontage        | 80 ft min                                     |
| (3) | Lot coverage        | 55% max                                       |
| (4) | Front setback       | 20 ft min                                     |
| (5) | Side setback        | 10 ft min                                     |
| (6) | Rear setback        | 10 ft min                                     |
| (7) | Residential Density | 1 dwelling unit per 10,000 sf of lot area max |
| (8) | Building coverage   | 45% max                                       |
| (9) | Building height     | 35 ft. max                                    |

**Section 2111. Interstate Commercial (C1) District**

2111.A **Purpose.** The purpose of the Interstate Commercial District is to reserve space for the provision of commercial services to users of the proposed Milton Interstate Access by accommodating transportation-supportive commercial uses.

2111.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited.

2111.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |     |                   |               |
|-----|-------------------|---------------|
| (1) | Lot size          | 40,000 sf min |
| (2) | Lot frontage      | 200 ft min    |
| (3) | Lot coverage      | 25% max       |
| (4) | Front setback     | 50 ft min     |
| (5) | Side setback      | 35 ft min     |
| (6) | Rear setback      | 35 ft min     |
| (7) | Building coverage | 20% max       |
| (8) | Building height   | 35 ft max     |

**Section 2112. Light Industrial (I1) District**

2112.A **Purpose.** The purpose of the Light Industrial District is to strengthen the role of this area as a local employment center by:

- (1) Accommodating light industrial and limited commercial uses in an area extending out from the historic town core center.
- (2) Minimizing the amount and visual impact of parking located in front of buildings.
- (3) Avoiding and mitigating potential conflicts between land uses so that the off-site impacts of industrial and commercial uses do not adversely affect quality of life in nearby residential neighborhoods
- (4) Developing an interconnected network of complete streets and pathways that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (5) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2112.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited.

2112.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |     |                   |               |
|-----|-------------------|---------------|
| (1) | Lot size          | 20,000 sf min |
| (2) | Lot frontage      | 100 ft min    |
| (3) | Lot coverage      | 50% max       |
| (4) | Front setback     | 25 ft min     |
| (5) | Side setback      | 25 ft min     |
| (6) | Rear setback      | 25 ft min     |
| (7) | Building coverage | 40% max       |
| (8) | Building height   | 35 ft max     |

**Section 2113. General Industrial (I2) District**

2113.A **Purpose.** The purpose the General Industrial District is to strengthen the role of this area as a regional employment center by:

- (1) Accommodating industrial and limited commercial uses in an area accessible to Interstate I-89 and the Town Core.
- (2) Maximizing vegetative screening to minimize the impact of development and signage visible from Interstate 89, US Route 7 and W. Milton Rd.
- (3) Transforming Route 7 into a safe and attractive highway corridor through improved access management, street trees, bicycle facilities, lighting and signage.
- (4) Developing an interconnected network of complete streets and pathways that disperse and calm traffic, and safely accommodate bicyclists
- (5) Limiting direct highway access to US Route 7 in favor of side streets.
- (6) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2113.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited.

2113.C **Development Standards.** The applicant must locate and design proposed development as follows:

- (1) New or substantially modified principal buildings must be oriented to the access road. Any land development that requires major site plan approval must landscape the area between US Route 7 and the building if the lot has frontage on US Route 7 so that the building is effectively screened by a mix of trees, shrubs, perennial plants within 4 growing seasons.

2113.D **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |                       |                |
|-----------------------|----------------|
| (1) Lot size          | 100,000 sf min |
| (2) Lot frontage      | 200 ft min     |
| (3) Lot coverage      | 75% max        |
| (4) Front setback     | 50 ft min      |
| (5) Side setback      | 35 ft min      |
| (6) Rear setback      | 35 ft min      |
| (7) Building coverage | 70% max        |
| (8) Building height   | 35 ft max      |

**Section 2114. Industrial Conservation (I3) District**

2114.A **Purpose.** The purpose the Industrial Conservation District is to foster the development of an environmentally-sensitive industrial park by:

- (1) Accommodating clustered industrial and limited commercial uses on large lots that provide adequate space for expansion.
- (2) Clustering development to preserve and maintain agricultural, open space, natural areas and forestry lands, scenic views, and maintain separation from residential neighborhoods.
- (3) Avoiding and mitigating potential conflicts between land uses so that the off-site impacts of commercial uses do not adversely affect quality of life in nearby residential neighborhoods
- (4) Accommodating limited recreational uses compatible with large open space and natural areas.
- (5) Maximizing vegetative screening to minimize the impact of development visible from North Road and US Route 7.
- (6) Developing an interconnected network of complete streets and pathways within the industrial park that safely accommodate traffic, pedestrians and bicyclists
- (7) Limiting direct highway access to North Rd. and US Route 7 in favor of side streets.
- (8) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2114.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited.

2114.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |                       |                |
|-----------------------|----------------|
| (1) Lot size          | 200,000 sf min |
| (2) Lot frontage      | 200 ft min     |
| (3) Lot coverage      | 40% max        |
| (4) Front setback     | 35 ft min      |
| (5) Side setback      | 20 ft min      |
| (6) Rear setback      | 20 ft min      |
| (7) Shoreline setback | 50 ft min      |
| (8) Building height   | 35 ft max      |

2114.D **Development Standards.** The applicant must locate and design proposed development as follows:

- (1) New or substantially modified principal buildings must be oriented to the access road
- (2) Any land development that requires major site plan approval must:
  - (a) Landscape the area between US Route 7 and the building if the lot has frontage on

US Route 7 so that the building is effectively screened by a mix of trees, shrubs, perennial plants within 4 growing seasons

- (b) Shorleland cover must be maintained in accordance with Section 3011.



**Section 2115. Old Towne Residential (R1) District**

2115.A **Purpose.** The purpose of the Old Towne Residential District is to foster the development of compact residential neighborhoods that offer higher density housing and high quality of life in the town core by:

- (1) Accommodating new residential neighborhoods and infill in areas that are served by public infrastructure and transit, and that are close to schools, shopping, services and public recreation facilities.
- (2) Avoiding and mitigating potential conflicts between land uses so that the off-site impacts of nearby commercial uses do not adversely affect residents' quality of life.
- (3) Stabilizing existing residential neighborhoods, and retaining existing and creating additional owner-occupied housing.
- (4) Developing an interconnected network of complete streets and pathways that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (5) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2115.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited.

2115.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |                         |   |
|-------------------------|---|
| (1) Lot size            | 10,000 sf min                                 |
| (2) Lot frontage        | 80 ft min                                     |
| (3) Lot coverage        | 55% max                                       |
| (4) Front setback       | 20 ft min                                     |
| (5) Side setback        | 10 ft min                                     |
| (6) Rear setback        | 10 ft min                                     |
| (7) Residential density | 1 dwelling unit per 10,000 sf of lot area max |
| (8) Building coverage   | 45% max                                       |
| (9) Building height     | 35 ft max.                                    |

**Section 2116. Medium Density Residential (R2) District**

2116.A **Purpose.** The purpose of the Medium Density Residential District is to foster the development of compact residential neighborhoods that offer medium density housing and high quality of life by:

- (1) Accommodating new development that avoids environmental limitations and preserves working farm and forest lands;
- (2) Stabilizing existing residential neighborhoods, and retaining existing and creating additional owner-occupied housing.
- (3) Developing a second roadway connection to US Route 7 within the district.
- (4) Developing an interconnected network of complete streets and pathways that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (5) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2116.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited.

2116.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |     |                   |                            |
|-----|-------------------|----------------------------|
| (1) | Lot size          | 80,000 sf min              |
| (2) | Lot frontage      | 200 ft min (single-family) |
| (3) | Lot coverage      | 45% max                    |
| (4) | Front setback     | 35 ft min                  |
| (5) | Side setback      | 15 ft min                  |
| (6) | Rear setback      | 15 ft min                  |
| (7) | Building coverage | 35% max                    |
| (8) | Building Height   | 35 ft max                  |

**Section 2117. Low Density Residential (R3) District**

2117.A **Purpose.** The purpose of the Low Density Residential District is to foster the development of clustered low density housing and working farms and forest by:

- (1) Accommodating new development that avoids environmental limitations and preserves working farm and forest lands.
- (2) Stabilizing existing residential neighborhoods, and retaining existing and creating additional owner-occupied housing.
- (3) Developing an interconnected network of complete streets and pathways that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (4) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2117.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited.

2117.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |     |                   |                |
|-----|-------------------|----------------|
| (1) | Lot size          | 120,000 sf min |
| (2) | Lot frontage      | 300 ft min     |
| (3) | Lot coverage      | 40% max        |
| (4) | Front setback     | 35 ft min      |
| (5) | Side setback      | 35 ft min      |
| (6) | Rear setback      | 35 ft min      |
| (7) | Building coverage | 35% max        |
| (8) | Building height   | 35 ft max      |

**Section 2118. Transitional Residential (R4) District**

2118.A **Purpose.** The purpose of the Transitional Residential District is to foster the development of clustered low density housing and working farms and forest by:

- (1) Accommodating new development that avoids environmental limitations and preserves working farm and forest lands.
- (2) Stabilizing existing residential neighborhoods, and retaining existing and creating additional owner-occupied housing.
- (3) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2118.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited.

2118.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |     |                   |                |
|-----|-------------------|----------------|
| (1) | Lot size          | 400,000 sf min |
| (2) | Lot frontage      | 400 ft min     |
| (3) | Lot coverage      | 40% max        |
| (4) | Front setback     | 35 ft min      |
| (5) | Side setback      | 50 ft min      |
| (6) | Rear setback      | 50 ft min      |
| (7) | Building coverage | 35% max        |
| (8) | Building height   | 35 ft max      |

**Section 2119. Agricultural/Rural Residential (R5) District**

2119.A **Purpose.** The purpose of the Agricultural/Rural Residential District is to foster the development of clustered, low density housing, working farms and forest and other natural resource-based uses by:

- (1) Accommodating new development that avoids environmental limitations and preserves working farm and forest lands.
- (2) Stabilizing existing residential neighborhoods, and retaining existing and creating additional owner-occupied housing.
- (3) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2119.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited.

2119.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |     |                   |                |
|-----|-------------------|----------------|
| (1) | Lot size          | 400,000 sf min |
| (2) | Lot frontage      | 400 ft min     |
| (3) | Lot coverage      | 40% max        |
| (4) | Front setback     | 35 ft min      |
| (5) | Side setback      | 50 ft min      |
| (6) | Rear setback      | 50 ft min      |
| (7) | Building coverage | 35% max        |
| (8) | Building height   | 35 ft max      |

**Section 2120. Shoreland Residential (R6) District**

2120.A **Purpose.** The purpose of the Shoreland Residential District is to foster the development of low density housing and water-dependent uses by:

- (1) Encouraging open space along the shoreline;
- (2) Accommodating new development that avoids environmental limitations and preserve sensitive shoreland areas and water resources from unsuitable development that degrades the ecological benefits of riparian areas.
- (3) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2120.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited.

2120.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |                       |                |
|-----------------------|----------------|
| (1) Lot size          | 100,000 sf min |
| (2) Lot frontage      | 200 ft min     |
| (3) Lot coverage      | 40% max        |
| (4) Front setback     | 35 ft min      |
| (5) Side setback      | 35 ft min      |
| (6) Rear setback      | 35 ft min      |
| (7) Shoreline setback | 50 ft min      |
| (8) Building coverage | 35% max        |
| (9) Building height   | 30 ft max      |

2120.D **Development Standards.** The applicant must locate and design proposed development in accordance with Section 3011.

**Section 2121. Beaverbrook Residential (R7) District**

2121.A **Purpose.** The purpose of the Beaverbrook Residential District is to foster development that maintains this medium density residential neighborhood by:

- (1) Accommodating compatible residential infill in areas that are served by public infrastructure and transit, and that is close to schools, shopping, services and public recreation facilities.
- (2) Stabilizing existing residential neighborhoods, and retaining existing and creating additional owner-occupied housing.
- (3) Developing an interconnected network of complete streets and pathways that disperse and calm traffic, and safely accommodate pedestrians and bicyclists.
- (4) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive designs.

2121.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited.

2121.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

- |     |                     |  |
|-----|---------------------|--|
| (1) | Lot size            | 40,000 sf min  |
| (2) | Lot frontage        | 125 ft min   |
| (3) | Lot coverage        | 55% max  |
| (4) | Front setback       | 20 ft min  |
| (5) | Side setback        | 15 ft min  |
| (6) | Rear setback        | 15 ft min  |
| (7) | Residential density | 1 dwelling unit per 40,000 sf max<br>(except 1 duplex is allowed per<br>40,000 sf) |
| (8) | Building coverage   | 45% max  |
| (9) | Building height     | 35 ft max  |

**Section 2122. Forestry/Conservation/Scenic Ridgeline (FC) District**

- (1) **Purpose.** The purpose of the Forestry/Conservation/Scenic Ridgeline District is protect natural resources by fostering development that:

- (a) Preserves open space.
- (b) Protects soils, water, and other natural resources.
- (c) Protects scenic ridgeline viewsheds and vistas important to the character of the Town of Milton. The undeveloped ridges and hillsides of Milton are one of Milton's principal scenic qualities and contribute significantly to the enjoyment of the rural and pastoral character of the town. Scenic ridgelines have been identified as Georgia Mountain, Milton Pond and surrounding ridgeline, Bald Hill, Cobble Hill, Eagle Mountain and Arrowhead Mountain. In order to protect these ridgelines, no structure or building shall be visible above the existing tree line.
- (d) Preserves forests and encourage forest-related uses.
- (e) Promotes agriculture and recreational uses that can benefit from the unique topography of the area.
- (f) Enables, to a limited extent, residential uses. Such residential uses are to be enabled only for land parcels necessarily located near the district boundary (i) that are accessible without extreme land disruption; (ii) that do not contain steep slopes, unstable soils, and other natural limitations; and (iii) only for sites that have the capacity to provide safe ingress and egress. Where possible, said residential uses shall be clustered.

2122.B **Use Standards.** The permitted and conditional uses in this district are listed in Section 2123. Any use not listed as permitted or conditional in Section 2123 is prohibited.

2122.C **Dimensional Standards.** The applicant must locate and design proposed development as follows:

	Permitted Uses	Conditional Uses
(1) Lot size	600,000 sf min	600,000 sf min
(2) Lot frontage	100 ft min	100 ft min
(3) Lot coverage	15% max	15% max of the buildable lot area (see Paragraph 2007.A(1))
(4) Front setback	35 ft min	35 ft min
(5) Side setback	50 ft min	50 ft min
(6) Rear setback	50 ft min	50 ft min
(7) Setback from wetlands, navigable streams and watercourses, or natural features determined by the Development Review Board to be of ecological or aesthetic significance.	50 ft min	200 ft min
(8) Building coverage	10% max	10% max
(9) Maximum height	30 ft	30 ft





Section 2123. Use Table

USE	DB1	NC1	NC2	M1	M2	M3	M4C	M4R	M5	M6	R1	R2	R3	R4	R5	R6	R7	C1	I1	I2	I3	FC	NOTES
RESIDENTIAL																							
(1) Single-family dwelling				P	P			P	P	P	P	P	P	P	P	P	P					C	See district use standards
(2) Duplex				P	P			P	P	P	P	C					P						See district use standards
(4) Multi-family dwelling			C	P	P			P															See district use standards & Section 3101
(5) Upper floor residential	P	P	P	P	P																		See district use standards & Section 3101
(6) Accessory dwelling	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	See Section 1110
(7) Accessory Home office	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	See Paragraph 1101.A(5)
(8) Accessory Home occupation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	See Section 1109
(9) Accessory Home business	C			P	P			C	C	C	C	C	C	C	C	C	C	P	P	P			See Section 3102
(10) Group Home	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	See Section 1104
(11) Accessory family childcare home	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	See Section 1111
(12) Retirement housing	P	P	P	C	C			P	C	C	C						C						See district use standards & Section 3101
(13) Assisted living	C	C	C	C	C			P	C	C	C												
(14) Skilled nursing services	C	C	C	C	C			P															
LODGING																							
(15) Accessory Short-Term Rental	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	See Paragraph

Town of Milton Unified Development Regulations • Part 2. Zoning Districts and Standards

USE	DB1	NC1	NC2	M1	M2	M3	M4C	M4R	M5	M6	R1	R2	R3	R4	R5	R6	R7	C1	I1	I2	I3	FC	NOTES
																							1101.A(6)
(16) Bed and breakfast	P	P	P	P				P	P	P					C	C							See Section 3104
(17) Inn	P	P	P	P				C		C													See Section 3105
(18) Rooming and boarding house	P	P	P	C				C		C													See Section 3106
(19) Hotel or motel	P	P	P		C		P																See Section 3107
COMMERCIAL																							
(20) Retail sales	P	P	P		P		C																
(21) Sales lot							C																
(22) Repair service		C	C				C																See Section 3108
(23) Fueling station		C	C				P											C					See Section 3111
(24) Carwash		C	C				C																See Section 3109
(25) Lawn, garden and farm supply sales		C	C				P												P				
(26) Lumber yard and building supply sales							P												C	C			
(27) Open market	P	C	C		P	P	C												C				
(28) Food or beverage stores	P	P	P		P		P																
(29) Convenience store	P	P	P		P		C								C*	C*		C					*Only if located on US Route 2 or 7
(30) Financial establishment	P	P	P		P		P																
(31) Rental and leasing							P																
(32) Office or professional service	P	P	P	P	P		P		C	P									C				
(33) Personal or business service	P	P	P		P		P		C	P													
(34) Veterinary service		P	P		P		P																

Town of Milton Unified Development Regulations • Part 2. Zoning Districts and Standards

USE		DB1	NC1	NC2	M1	M2	M3	M4C	M4R	M5	M6	R1	R2	R3	R4	R5	R6	R7	C1	I1	I2	I3	FC	NOTES
(35)	Building or property maintenance service							P												C	C			
(36)	Restaurant	P	P	P		P		P		C	C											P*		*As an accessory use only
(37)	Tavern	P	C	C				P																
(38)	Event facility	C	C	C		P	C	P																
(39)	Mobile food service	C	C	C		C	C	C																
(40)	Catering service	C	C	C				P													P			May always be accessory to a restaurant use
(41)	Pet and animal service	C	C	C				C								C				C	C			
(42)	Fireworks sales																		C					See section 3118
INDUSTRIAL																								
(43)	Light industry	C				C		C*/P												P	P	P		*If lot has frontage on Route 7
(44)	Food or beverage manufacturing	C	C	C		C		P												P	P	P		
(45)	Handcrafted or artisanal manufacturing	P	P	P	C	C		P												P	P	P		
(46)	Laboratory or research facility	C*	C*	C*		C		P												P	P	P		*Upper floor only or internal to building lot only
(47)	Wholesale trade	C	C	C				P												P	P	P		
(48)	Warehouse and storage service							C												P	P	P		
(49)	Self-storage facility																				C*			See Section 3112
(50)	Tank farm or fuel distributor																				C			
(51)	Contractor yard							P												C	C			
(52)	Heavy industry																				P	P		
TRANSPORTATION, COMMUNICATION &																								

Town of Milton Unified Development Regulations • Part 2. Zoning Districts and Standards

USE		DB1	NC1	NC2	M1	M2	M3	M4C	M4R	M5	M6	R1	R2	R3	R4	R5	R6	R7	C1	I1	I2	I3	FC	NOTES
UTILITIES																								
(53)	Parking	C*	C*	C*		C																		*Accessory use internal to lot only
(54)	Transit facility						C	C		C*	C*								C	C*	P	P*		*Only if principally for rail travel
(55)	Truck or freight transportation																				P	P		See Section 3108
(56)	Publishing or printing							P													P	P		
(57)	Media studio	P	P	P		P		P																
(58)	Communication antenna	P	P	P			P	P													P	P		See Section 3114
(59)	Communication tower						C	C													C	C		See Section 3114
(60)	Data center or information services	C*	C*	C*	C*	C*	C*	P													P			*Upper floor or internal to building or lot only
(61)	Essential service	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	P	P	P	P	C		
(62)	Waste service						C														C			
(63)	Salvage Yard																				C			See Error! Reference source not found.
ARTS, ENTERTAINMENT & RECREATION																								
(64)	Adult Entertainment	C																						See Section 3113
(65)	Performance theater	P/C*	P/C*	P/C*		P/C*	P	C			C													*If outdoor
(66)	Movie theater	P	P	P		P	P	C			C													
(67)	Sports arena	C				P/C*	P	P																*If outdoor
(68)	Museum	P	P	P			P																	
(69)	Indoor recreation	P	P	P	P	P	P	P													C	P		
(70)	Outdoor recreation					C	P					C	C	C	C	P	C					P	C	
(71)	Public recreation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				P	P	See

USE	DB1	NC1	NC2	M1	M2	M3	M4C	M4R	M5	M6	R1	R2	R3	R4	R5	R6	R7	C1	I1	I2	I3	FC	NOTES
																							Section 1108
(72) Marina			C*			C*	P								C	C					C*		*No outdoor landed boat storage in excess of 20
(73) Campground															C	C					C	C	See Section 3103
(74) Park or preserve	C	C	C	C	C	P	C	C	C	C	P	P	P	P	P	P	P				P	P	
(75) Outdoor Shooting Range															C								See Section 3116
EDUCATION, GOVERNMENT, HEALTHCARE & OTHER COMMUNITY INSTITUTIONS																							See Section 1108
(76) Grade school	P				P	P																	
(77) College or university	P				P	P																	
(78) Trade or technical school	P				P	P	C														P*		*Accessory only
(79) Specialty school	P	P	P	C	P	P	C																
(80) Government office or courthouse	P				P	P																	
(81) Public safety facility						P														C	C		
(82) Highway maintenance facility						P												C		C	C		
(83) Medical clinic	P	P	P		P	P	P														P*		*Accessoy only
(84) Supervision and rehabilitation service	C	C	C			P																	
(85) Social assistance and charitable service	C*	P	P	C	C	P	C																*Upper floor or internal to building only
(86) Child day care	P	P	P	P	P	P	P*	C	C	C										P*	P*		*Accessory only
(87) Religious institution	P	P	P	C	P			P		P													
(88) Funeral and cremation service	P	P	P			P	P			C													

USE		DB1	NC1	NC2	M1	M2	M3	M4C	M4R	M5	M6	R1	R2	R3	R4	R5	R6	R7	C1	I1	I2	I3	FC	NOTES
(89)	Cemetery						P									P								
(90)	Social and membership organization	P	P	P							P													
MINING, AGRICULTURE & FORESTRY																								
(91)	Extraction													C	C	C					C			See Section 3115
(92)	Agriculture	E/C	E/C	E/C	E/C	E/C	E/C	E/C	E/C	E/C	E/C	E/C	E/P	E/P	E/P	E/P	E/C	E/C	E/P	E/P	E/P	E/P	E/P	See Section 1106
(93)	Forestry	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	E/P	See Section 1106
(94)	Greenhouse or nursery							C						C	C	C			C					
(95)	Stable or riding facility												C	C	C	P								
(96)	Agriculture support service															C				C	P	P		
(97)	Firewood production or sawmill															C				C	P	P		
(98)	Fishing and game preserves														P	P	P					C	C	
(99)	Accessory agricultural enterprise												C	C	C	C						C		See Section 3117

P = Permitted (site plan review and/or zoning permit may be required)  
C = Conditional Use Review  
E = Exempt from permitting requirements  
A blank field indicates that the use is not allowed in that zoning district.

## Chapter 220. Overlay Zoning Districts

### Section 2201. Flood Hazard (FHO) Overlay District

- 2201.A **Authority.** The Town of Milton has adopted these regulations for areas at risk of flood damage in accordance with and as authorized by 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 §4424, §4411 and §4414.
- 2201.B **Purpose.** In addition to the general purposes of Section 1003, it is the specific purpose of this section to:
- (1) Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding;
  - (2) Ensure that the selection, design, creation, and use of development is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair flood plain services or the stream corridor; and
  - (3) Manage the flood hazard area so as to make the Town of Milton, its citizens and businesses, eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available
- 2201.C **Precedence.** The provisions of this section do not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where the provisions of this section impose a greater restriction than other laws or regulations, the provisions of this section will take precedence.
- 2201.D **Liability Disclaimer.** The provisions of this section do not imply that land outside of the areas covered by this section will be free from flood damages. This section does not create liability on the part of the Town of Milton, or any of its officials or employees, for any flood damages that result from reliance on this section, or any administrative decision lawfully made under this section.
- 2201.E **Applicability.** The provisions of this section apply to the Special Flood Hazard Area as described by the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency (FEMA), National Flood Insurance Program and provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 § 753. The Town of Milton has adopted the flood insurance studies and maps and incorporates them by reference into these regulations.
- 2201.F **Determination of Boundary.** The Zoning Administrator will determine the boundary of the Special Flood Hazard Area based on the most current flood insurance studies and maps. If the applicant disagrees with the Zoning Administrator's determination, the applicant may obtain and submit a Letter of Map Amendment from FEMA.
- 2201.G **Base Flood Elevations and Floodway Limits.** Applicants must use the base flood elevations and floodway limits provided by the National Flood Insurance Program (NFIP) in the flood insurance studies and maps where available. If the NFIP has not provided base flood elevations and/or floodway limits in the Special Flood Hazard Area, applicants must develop the necessary data using information available from state or federal agencies.



## Town of Milton Unified Development Regulations • Part 2. Zoning Districts and Standards

2201.H **Use Standards.** The Special Flood Hazard Area is not an appropriate location for new development that increases the elevation of the base flood. Therefore, the uses allowed in the underlying zoning district are further restricted and regulated as follows:

ACTIVITY		OUTSIDE THE FLOODWAY	WITHIN THE FLOODWAY
1	New structures except as specifically listed below	X	X
2	Storage or junk yards	X	X
3	Non-substantial improvements to existing structures	P	C
4	Substantial improvements to existing structures (including but not limited to elevation, relocation or flood proofing)	C	C
5	Small accessory structures	P	X
6	Removal of a structure in whole or part	A	A
7	At grade parking for existing buildings	P	C
8	Development related to water supply or septic systems	C	C
9	New or replacement storage tanks for existing structures	C	C
10	Building utilities	P	C
11	Fill needed to elevate existing structures above the base flood elevation	C	C
12	Fill not needed to elevate existing structures	X	X
13	Grading, excavation or the creation of a pond	C	C
14	Maintenance of existing roads and stormwater drainage	A	A
15	Improvements to existing roads and stormwater drainage	C	C
16	Bridges, culverts or public projects that are functionally dependent on stream access or crossing	C	C
17	Critical facilities	X	X
18	Public utilities	C	C
19	Channel management	C	C
20	Recreational vehicles	P	P
21	Open space, recreation	A	A
22	Forestry in accordance with acceptable management practices	A	A
23	Agriculture in accordance with required agricultural practices	A	A

P = Permitted C = Conditional Use Review X = Prohibited A = Exempted

## **Town of Milton Unified Development Regulations • Part 2. Zoning Districts and Standards**

- 2201.I **Waivers and Variances.** Proposed land development within the special flood hazard area is not eligible for a waiver under Section 4604. Variances within the special flood hazard area must be granted in accordance with Section 4605.
- 2201.J **Nonconformities.** Nonconforming development within the special flood hazard is subject to the provisions of Chapter 130 and the following:
- (1) Property owners may only reconstruct a substantially damaged or destroyed nonconforming structure in the special flood hazard area if the structure cannot be relocated to a less hazardous location on the lot in accordance with the following:
    - (a) The lowest floor of the reconstructed structure must be rebuilt to one foot or more above the base flood elevation; and
    - (b) The structure must otherwise comply with all requirements of the National Flood Insurance Program.
  - (2) The Town of Milton will consider nonconforming structures or uses in the special flood hazard area abandoned where such structures or uses are discontinued for more than 12 months; and
  - (3) The Town of Milton will not consider an individual manufactured home lot in an existing manufactured home park that is vacated a discontinuance or abandonment of nonconformity. Replacement manufactured homes must otherwise comply with all requirements of the National Flood Insurance Program (NFIP).
- 2201.K **NFIP Development Standards Outside the Floodway.** The following are the minimum standards for development in the special flood hazard area outside the floodway. In all cases, the most restrictive standards will take precedence.
- (1) All development must be:
    - (a) Reasonably safe from flooding;
    - (b) Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
    - (c) Constructed with materials resistant to flood damage;
    - (d) Constructed by methods and practices that minimize flood damage;
    - (e) Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
    - (f) Adequately drained to reduce exposure to flood hazards;
    - (g) g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
    - (h) Required to locate any fuel storage tanks (as needed to serve an existing building in the special flood hazard area) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.

## **Town of Milton Unified Development Regulations • Part 2. Zoning Districts and Standards**

- (2) In Zones AE, AH, and A1 – A30 where FEMA has not determined base flood elevations and/or floodway limits, the Town of Milton will not approve development unless the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than one foot at any point within the community. The applicant must present technical data that conforms to standard hydraulic engineering principles and that is certified by a registered professional engineer.
- (3) Applicants proposing to substantially improve structures in Zones A, A1-30, AE, and AH must locate or design the structure so that the lowest floor is at least one foot above base flood elevation and must document the structure's elevation in as-built condition with a FEMA Elevation Certificate.
- (4) Applicants proposing to substantially improve non-residential structures must:
  - (a) Conform to Subparagraph (3) above; or,
  - (b) Design the structure so that the lowest floor (including the basement, together with attendant utility and sanitary facilities) is watertight to at least two feet above the base flood elevation with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. The applicant must provide specifications and plans prepared or reviewed by a registered professional engineer or architect certifying that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subparagraph.
- (5) Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.
- (6) Fully enclosed areas that are above grade, below the lowest floor, below base flood area and subject to flooding, must:
  - (a) Be solely used for parking of vehicles, storage, or building access, and such a condition must clearly be stated on any permits; and,
  - (b) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (7) Recreational vehicles must be fully licensed and ready for highway use. A recreation vehicle is ready for highway use if it is on its wheels and jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- (8) A small accessory structure of 500 square feet or less that represents a minimal investment need not be elevated to the base flood elevation in this area, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in Subparagraph (6) above.

## Town of Milton Unified Development Regulations • Part 2. Zoning Districts and Standards

- (9) Applicants must design water supply systems to minimize or eliminate infiltration of flood waters into the systems.
- (10) Applicants must design sanitary sewage systems to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (11) Applicants must locate on-site waste disposal systems to avoid impairment to them or contamination from them during flooding.
- (12) The flood carrying and sediment transport capacity within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability;
- (13) Bridges and culverts, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.
- (14) Subdivisions and planned unit developments must be accessible by dry land access outside the special flood hazard area.
- (15) Existing buildings, including manufactured homes, to be substantially improved in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the flood insurance study and map, or at least two feet if no depth number is specified.

2201.L **NFIP Development Standards Within the Floodway.** The following are the minimum standards for development in the special flood hazard area inside the floodway. In all cases, the most restrictive standards will take precedence.

- (1) Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will:
  - (a) Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
  - (b) Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
- (2) Public utilities may be placed underground, and the analyses may be waived, where a registered professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

2201.M **Application Requirements.** In addition to all other applicable requirements, applicants for development within the special flood hazard area must submit:

- (1) A site plan that depicts the proposed development, all water bodies, special flood hazard areas and floodway limits, any existing and proposed drainage, any proposed fill, and pre- and post- development grades, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current flood insurance studies and maps; and

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- (2) A Vermont Agency of Natural Resources Project Review Sheet that identifies all state and federal agencies from which permit approval is required for the proposed development. The applicant must submit the identified permits, or letters indicating that such permits are not required, to the Zoning Administrator before work can begin. The Zoning Administrator must attach the permits or letters to the municipal permit.
- 2201.N **Referrals.** Upon receipt of a complete application for a substantial improvement or new construction within the special flood hazard area, the Zoning Administrator must submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. § 4424. Additionally, if the applicant is seeking a permit for the alteration or relocation of a watercourse, the Zoning Administrator must submit copy of the application and supporting information to downstream communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. The Zoning Administrator may only issue a permit following receipt of comments from those noticed, or the expiration of 30 days from the date the notice was mailed, whichever is sooner.
- 2201.O **Records.** The Zoning Administrator shall properly file and maintain a record of:
- (1) All permits issued in the special flood hazard area;
  - (2) Elevation certificates with the as-built elevation of the lowest floor, including basement, of all new or substantially improved buildings (not including accessory buildings) in the special flood hazard area;
  - (3) All flood proofing and other certifications required under this section; and
  - (4) All decisions and all supporting findings of fact, conclusions and conditions.
- 2201.P **Certificate of Compliance.** Prior to using or occupying or allowing land or structures to be used or occupied approved in the special flood hazard area under this section, the applicant must obtain a certificate of compliance from the Zoning Administrator in accordance with Section 4207 and the following:
- (1) In addition to other applicable requirements, the applicant must submit an elevation certificate prepared by a professional engineer, licensed land surveyor or architect authorized by law to certify elevation information.
  - (2) The Zoning Administrator must inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and that all work has been completed in conformance with the zoning permit and associated approvals.
  - (3) If the Zoning Administrator denies the Certificate of Compliance, the Zoning Administrator must send a copy of the notice of denial to the lender if applicable.
- 2201.Q **Enforcement and Penalties.** The Town of Milton will enforce the provisions of this section in accordance with Chapter 470 and the following:
- (1) The Zoning Administrator must send any notice of violations issued within the special flood hazard area to the State NFIP Coordinator.
  - (2) If any appeals have been resolved, but the violation remains, the Zoning Administrator must submit a declaration to the Administrator of the National Flood Insurance Program requesting a denial of flood insurance to the property pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

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- (3) The Town of Milton will enforce violations of the state's required agricultural practices within the special flood hazard area as a violation of these regulations. The Zoning Administrator must notify the Secretary of Agriculture of any such violations.

2201.R **Definitions.** The terms below are specifically defined as used in this section. All other terms are as defined in Part 5.

- (1) **BASE FLOOD** means the flood having a 1% chance of being equaled or exceeded in any given year, commonly known as the 100-year flood.
- (2) **BASE FLOOD ELEVATION (BFE)** means the elevation of the water surface resulting from the base flood. The BFE is usually shown on the Flood Insurance Rate Map.
- (3) **BASEMENT** means any area of a building with a floor elevation that is below ground level on all sides.
- (4) **CHANNEL** means an area that contains continuously or periodic flowing water that is confined by banks and a streambed.
- (5) **COMMON PLAN OF DEVELOPMENT** means a phased project to improve a structure or lot over a period of time.
- (6) **CRITICAL FACILITIES** means structures the community identifies as essential to residents' health and welfare and that are especially important following a disaster such as fire and rescue facilities, hospitals, disasters, shelters, police stations, schools, nursing homes, water supply treatment facilities, grocery stores, and fueling stations.
- (7) **DEVELOPMENT** means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- (8) **FILL** means any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity of land.
- (9) **FLOOD** means either:
  - (a) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of surface waters, the unusual and rapid accumulation or runoff of surface waters from any source, and/or mudslides caused by flooding that result in a river of liquid and flowing mud; or
  - (b) The collapse or subsidence of land along a water body as a result of erosion or undermining that is caused by waves or currents of water exceeding anticipated cyclical levels, or that is suddenly caused by an unusually high water level in a natural water body, accompanied by a severe storm, flash flood or similar unforeseeable event that results in flooding.
- (10) **FLOOD INSURANCE RATE MAP (FIRM)** means an official map on which the National Flood Insurance Program Administrator has delineated the special flood hazard areas and the risk premium zones within the town.
- (11) **FLOOD INSURANCE STUDY (FIS)** means an examination, evaluation and determination of flood hazards and the corresponding water surface elevations, or of mudslide and/or flood-related erosion hazards.

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- (12) FLOODPLAIN or FLOOD-PRONE AREA means any land area susceptible to being inundated by water from any source (see definition of flood).
- (13) FLOOD PROOFING means any combination of structural and non-structural additions, changes or modifications to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, buildings and their contents.
- (14) FLOODWAY or REGULATORY FLOODWAY means the channel of a river, stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1 foot at any point. Special flood hazard areas and floodways may be shown on separate panels or sheets of the FIRM.
- (15) HISTORIC STRUCTURE means any structure that is:
  - (a) Listed individually on the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - (b) Certified or preliminarily determined by the Secretary of the Interior as contributing the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district; or
  - (c) Individually listed on the Vermont Register of Historic Places.
- (16) LETTER OF MAP AMENDMENT (LOMA) means a letter issued by the Federal Emergency Management Agency officially removing a structure or lot from the special flood hazard area based on information provided by a registered professional engineer or surveyor. FEMA issues a LOMA when upon the landowner demonstrating that a structure or lot is located above the base flood elevation and has been inadvertently included in the special flood hazard area.
- (17) LOWEST FLOOR means the lowest floor of the lowest enclosed area within a building, including a basement. An unfinished or flood-resistant enclosure used solely for storage, parking or building access will not be considered a building's lowest floor if it is built in conformance with Paragraph 2201.K(6).
- (18) MANUFACTURED HOME means a building, transportable in one or more sections that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. This definition specifically excludes recreational vehicles.
- (19) MANUFACTURED HOME PARK means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- (20) MANUFACTURED HOME PARK, EXISTING means a manufactured home park for which the construction of facilities for serving the sites on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of roads, and either final site grading or the pouring of concrete pads) was completed before the Town of Milton adopted floodplain management regulations. Any expansion to an existing manufactured home park resulting in additional manufactured home sites will be considered new construction.

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- (21) **NEW CONSTRUCTION** means structures for which the start of construction commenced after the Town of Milton adopted floodplain management regulations, and includes any subsequent improvements to such structures.
- (22) **RECREATIONAL VEHICLE** means a vehicle that is:
  - (a) Built on a single chassis;
  - (b) 400 square feet or less when measured at the largest horizontal projection;
  - (c) Designed to be self-propelled or permanently towable by a light-duty truck; and
  - (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
- (23) **SPECIAL FLOOD HAZARD AREA** means the floodplain within the Town of Milton that is subject to being inundated by the base flood. The special flood hazard area is usually labeled Zone A or AE in the flood insurance study and on the flood insurance rate maps. The base flood elevation has not been determined in Zone A. In Zone AE, the base flood elevations are shown on the flood insurance rate maps.
- (24) **START OF CONSTRUCTION** means the date the Zoning Administrator issued a zoning permit provided that the actual start of construction was within 180 days of the permit date. Development is subject to the flood insurance rate map and flood regulations in effect at the start of construction.
- (25) **START OF CONSTRUCTION, ACTUAL** means the date of:
  - (a) The first placement of permanent construction of a principal structure on a site, such as pouring a slab or footings, installing piles, constructing columns, or any work beyond the stage of site preparation or excavation;
  - (b) The placement of a manufactured home on a foundation; or
  - (c) The first alteration of any wall, ceiling, floor or other structural part of a building.
- (26) **STRUCTURE** means:
  - (a) A building with two or more outside rigid walls and a fully secured roof that is affixed to a permanent site;
  - (b) A gas or liquid storage tank that is principally above ground; or
  - (c) A manufactured home.
- (27) **SUBSTANTIAL DAMAGE** means damage of any origin sustained by a structure that results in the cost of restoring the structure to its pre-damage condition equaling or exceeding 50% of the market value of the structure before the damage occurred.
- (28) **SUBSTANTIAL IMPROVEMENT**:
  - (a) Means any reconstruction, rehabilitation, addition or other improvement of a structure that cumulatively over three years or over a common plan of development costs 50% or more of the market value of the structure before the start of construction of the improvement.
  - (b) Means any repair of a substantially damaged structure.
  - (c) But does not mean any improvement of a structure to correct existing violations of state or town health, sanitary or safety code identified by the applicable code



enforcement officer to the minimum extent necessary to assure safe living conditions.

- (d) But does not mean any alteration of a historic structure that will not preclude the structure's continued designation as a historic structure.
- (29) TOP OF BANK means that vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys, it is generally the point where the stream is able to overflow the banks and enter the floodplain. For streams in steep and narrow valleys, it is generally the same as the top of slope.
- (30) TOP OF SLOPE means either:
  - (a) A break in slopes adjacent to steep-banked streams that have little or no floodplain; or
  - (b) A break in slope where the side slopes adjacent to an incised or deeply cut channel meet floodplains that have been abandoned or are undergoing abandonment.
- (31) VIOLATION means the failure of a structure or other development to be fully compliant with the provisions of this section. The Zoning Administrator will presume that a structure or other development without the elevation certificate, other certifications or other evidence of compliance required in these regulations to be in violation until the property owner provides that documentation.

## PART 3. DEVELOPMENT STANDARDS

### Chapter 300. Standards that Apply to All Land Development

#### Section 3001. Access

- 3001.A **Access Permit.** An application for development to be served by a new curb cut on a public road must obtain and provide the Zoning Administrator with a copy of a highway access permit or letter of intent from the town or state as applicable, before the Zoning Administrator may issue a zoning permit.
- 3001.B **Inspection.** The applicant must demonstrate that the Town of Milton Public Works Department has inspected any new or modified curb cut on a public road and found it to be in conformance with the Town of Milton Public Works Specifications, these regulations and any conditions of approval before the Zoning Administrator may issue a certificate of compliance for development served by that curb cut.
- 3001.C **Number of Curb Cuts.** A lot must not be served by more than one curb cut except that:
- (1) The Development Review Board may approve more than one access on a lot if the applicant can demonstrate that it is necessary to accommodate unique physical conditions on the property, to meet minimum standards for emergency access, or to provide improved traffic circulation within the site.
  - (2) The Development Review Board may require a secondary or emergency access for subdivisions or developments when deemed necessary to protect public safety.
- 3001.D **Cross Access.** Applicants proposing to subdivide or develop commercial, industrial or mixed-use lots that front on a state highway must provide a two-way access connection to abutting undeveloped, commercial, industrial or mixed-use properties whenever physically feasible. The Development Review Board may:
- (1) Require construction of the access or an easement with agreement for later construction of the access as a condition of approval.
  - (2) Waive the requirement for cross access if the abutting property is in a residential zoning district.
- 3001.E **Class 4 Roads.** No provision of these regulations will be interpreted to require the Town of Milton to maintain a Class 4 road or to upgrade a Class 4 road to a Class 3 road so that it may serve to provide access to adjoining property. Applicants may propose to upgrade a Class 4 road to a Class 3 road so that it may serve to provide access in accordance with the following:
- (1) The applicant must submit a petition to upgrade a Class 4 road to a Class 3 road to the Selectboard in accordance with Title 19 of Vermont Statutes Annodated.
  - (2) The applicant will bear the cost of upgrading the road and the Selectboard may require a surety for the road improvements.
  - (3) The applicant must construct any upgraded road in accordance with the Town of Milton Public Works Specifications, as confirmed by the Department of Public Works, before the Selectboard will reclassify the road.

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- (4) The Town of Milton will not grant any zoning permits or development approvals until the applicant upgrades and the Selectboard reclassifies the road except for:
  - (a) Accessory structures or expansions to existing principal structures accessed from Class 4 roads and developed prior to September 5, 2005. This exemption specifically excludes additional uses principal or accessory.

### **Section 3002. Driveways**

- 3002.A **Applicability.** Applicants must design and construct all new or extended driveways serving proposed development in accordance with this section. A driveway may serve a maximum of: 3 lots, 3 principal buildings on a lot, or 50 dwelling units on one lot (subject to the maximum density requirements in the zoning district) ,whichever is most restrictive. Vehicular ways serving proposed development in excess of this threshold must be established as a road in accordance with Subsection 3405.A.
- 3002.B **Public Works Specifications.** Applicants must construct new or extended driveways in accordance with the Town of Milton's Public Works Specifications. In the case of a conflict between a provision of these regulations and a provision of the Town of Milton's Public Works Specifications, the Public Works Specifications will govern.
- 3002.C **Technical Review.** The Zoning Administrator will forward all applications for new or extended driveways to the Public Works Department for review and comment. The Development Review Board or Zoning Administrator may condition or deny any approval or permit based on those comments.
- 3002.D **General Standards.** Applicants must construct new or extended driveways to have:
  - (1) A minimum clear width of 16 feet (free of fences, poles, trees, signs or other obstructions);
  - (2) A minimum clear height of 15 feet (free of tree branches, overhead wires or other obstructions, including when under snow load);
  - (3) A minimum paved width of 12 feet (the term paved encompasses gravel, asphalt, concrete or other hard surfaces suitable for supporting vehicle traffic); and
  - (4) A maximum grade of 15% as measured over any 100-foot section.
- 3002.E **Drainage.** Driveways must not block the flow of drainage in drainage ditches, gutters or pipes. Run-off from the driveway must not be discharged onto the traveled portion of the road or otherwise cause flooding of or damage to the road. Run-off from the driveway must not unreasonably contribute to an accumulation of stormwater that would exceed the capacity of downstream facilities or infrastructure. Where necessary, the applicant will be responsible for installing a culvert to carry run-off under the driveway in accordance with the Town of Milton Public Works Specifications.
- 3002.F **Sidewalks.** Sidewalks, where they are existing or will be installed as part of the proposed development, must continue across driveways and they must have a minimum depth of 8 inches across the driveway. If the installation of a driveway requires disrupting an existing sidewalk, the applicant will be responsible for restoring or replacing it.

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- 3002.G **Intersections.** Applicants must locate, design and space the intersection of driveways with the road to ensure adequate sight distance, prevent traffic congestion and maintain traffic safety. Driveways must intersect the road at an angle as close to 90 degrees as feasible and must not intersect the road at an angle of less than 75 degrees if designed for two-way traffic or 60 degrees if designed for one-way traffic.
- 3002.H **Emergency Vehicles.** Applicants must design and construct driveways to accommodate safe access by emergency vehicles. Any driveway longer than 500 feet and with a paved width of less than 20 feet must be constructed with pull-off areas not more than 500 feet apart. A driveway longer than 200 feet must terminate with a parking and turnaround area not more than 50 feet from the principal building that is adequately sized and surfaced to accommodate emergency vehicles and to allow fire equipment and personnel to be positioned to effectively lay out equipment, approach the building, and fight a fire.
- 3002.I **Shared Driveways.** Applicants proposing a shared driveway must file a legally executed agreement for the perpetual maintenance of the driveway by the owners of the lots or dwellings served in the Town of Milton Land Records. The Zoning Administrator may not issue a zoning permit or certificate of compliance for development on a lot served by a shared driveway until the applicant files the agreement.

### **Section 3003. Parking**

- 3003.A The applicant must design, construct and maintain off-street parking and loading areas as follows:
- (1) **Pavement.** Off-street parking and loading areas must provide a firm, level surface appropriate for the anticipated level of use in all seasons.
  - (2) **Spaces Blocking Garages.** Any parking spaces within a garage that are blocked by another space in the driveway will not qualify as a required parking space.
  - (3) **Minimum Parking Ratios.** See Figure 3-01.

### **Section 3004. Construction-Related Temporary Structures**

- 3004.A The Zoning Administrator may issue a zoning permit for temporary structures to be located on a lot as needed to facilitate construction of development authorized by a zoning permit in accordance with the following:
- (1) Construction-related temporary structures include, but are not limited to, construction offices, construction trailers, storage containers or units, and dumpsters.
  - (2) A construction-related temporary structure must not be used as a dwelling unit.
  - (3) The temporary structure must be located on the lot only during the period of construction and must be removed prior to the Zoning Administrator issuing a certificate of compliance.
  - (4) Zoning permits for such temporary structures will expire upon the expiration of the associated zoning permits for construction.

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3004.B The Zoning Administrator may issue a zoning permit for a temporary dwelling on a lot where a permanent dwelling is under construction. The temporary dwelling must be located on the lot only during the period of construction as authorized by the associated zoning permit for a permanent dwelling. The applicant must remove or convert the temporary dwelling to a lawful accessory use upon the expiration of the zoning permit and prior to the Zoning Administrator issuing a certificate of compliance for the associated permanent dwelling. Conversion to a lawful accessory use will be interpreted as one of the following:

- (1) The applicant obtains a zoning permit to convert the temporary dwelling to an accessory dwelling in accordance with Section 1110 and all other applicable provisions of these regulations.
- (2) The applicant removes in its entirety either the kitchen facilities or the bathroom facilities from the structure or portion of a structure serving as a dwelling unit so that it no longer meets the definition of a dwelling unit. If the structure or portion of a structure used as a temporary dwelling will continue to have bathroom facilities, the applicant must demonstrate that those are covered by the water and wastewater permit for the permanent dwelling.
- (3) If the temporary dwelling is a camping unit, it may continue to be located on a residential property and used for non-commercial, recreational purposes in accordance with Section 3005 and all other applicable provisions of these regulations.

### **Section 3005. Camping Units**

3005.A Any parcel of land that is occupied by or designed to accommodate more than 3 camping units will be considered a campground and subject to all applicable provisions of these regulations applicable to campgrounds.

3005.B A property owner may locate not more than 3 camping units (such as: tiny house travel trailers, campers, conventional travel trailers, RVs, cabins, lean-tos, tents, etc.) on his/her residential property to be used for non-commercial, recreational purposes in accordance with the following:

- (1) Such units must not be occupied for more than 21 days total in any calendar year unless the property owner obtains a zoning permit.
- (2) All tiny house travel trailers, conventional travel trailers or RVs on the property must be licensed and registered unless exempted under Section 1101.
- (3) The Zoning Administrator may issue a zoning permit to allow not more than 3 camping units to be located on a residential lot and occupied for a maximum of 90 days total in any calendar year as an accessory use of single family dwelling residential property if the applicant demonstrates an acceptable gray water disposal plan.

3005.C A property owner may apply for a zoning permit to allow the placement of 1 camping unit as the principal use of an otherwise undeveloped lot in accordance with the following:

- (1) The proposed development may include the construction of a permanent pad, accessory structures and installation of utilities that conform to the standards of these regulations for similar structures and uses on single-family residential lots.

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- (2) The applicant must demonstrate conformance with state water and wastewater rules before the Zoning Administrator may issue a zoning permit.
- (3) The camping unit may remain on the lot year-round, but it may only be occupied for a maximum of 180 days in any calendar year.

### **Section 3006. Swimming Pools**

3006.A A property owner may apply for a zoning permit to install a swimming pool on his/her residential property to be used for non-commercial, recreational purposes as an accessory use in accordance with the following:

- (1) Swimming pools must be completely enclosed by a wall, fence or other structure not less than 4 feet in height with a self-closing and self-latching gate. An above-ground pool with smooth exterior walls at least 4 feet in height above grade around its entire perimeter will be assumed to have met this requirement if:
  - (a) The ladder access area is enclosed by a wall, fence, or other structure not less than 4 feet in height with a self-closing and self-latching gate; or
  - (b) Entrance to the pool is possible only through the use of portable steps or stairs that are removed when the pool is not in use.
- (2) Swimming pools must be oriented away from the street and located in the side or rear yard, not in the front yard. The Zoning Administrator may allow waivers in cases of irregularly shaped lots.

### **Section 3007. Non-Commercial Excavation and Fill**

3007.A **Applicability.** The provisions of this section apply to all excavating and filling of land not exempted in Paragraph 1101.A(4) or associated with an extraction operation as defined under these regulations. A property owner must obtain a zoning permit for excavating and filling of land in accordance with the provisions of this section.

3007.B **Limitations.** The Zoning Administrator may only issue one permit for excavation and fill under this section to a property owner in any 5-year period for the subject lot and all contiguous land under the same ownership.

3007.C **Excavation and Fill Near Waterways.** Excavation and fill is prohibited within surface waters, wetlands and any required buffers or setbacks to surface waters or wetlands unless the proposed activity will be subject to state permitting and the applicant demonstrates that he/she has obtained all required state permits. Excavation and fill within the Flood Hazard Overlay District is subject to the standards of Section 2201.

3007.D **Fill Material.** The use of any material other than uncontaminated soil for fill is prohibited unless the proposed fill will be subject to state permitting, in which case the conditions of the state permit regarding the fill material will prevail. The Town of Milton strongly encourages property owners to test any fill for hazardous elements. Fill can contain hazardous contaminants, affecting water quality and human health.

3007.E **Standards.** Excavation and fill must conform to the following unless otherwise approved by the Development Review Board as an element of proposed land development subject to site plan approval:

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- (1) Excavation and fill is prohibited within zoning district setbacks.
- (2) Excavation and fill must not alter the pre-existing grade by more than 5 feet.
- (3) Excavation and fill must not result in a slope steeper than a 2:1 (horizontal-to-vertical) ratio.

### **Section 3008. Water Supply and Wastewater Disposal**

3008.A All proposed development requiring a zoning permit under these regulations must conform to applicable town ordinances and specifications, and/or state regulations regarding the provision of potable water and disposal of wastewater.

### **Section 3009. Erosion Control**

3009.A **Purpose.** This section is intended to promote construction practices on development and redevelopment sites that limit soil disturbance and compaction, and minimize erosion and sedimentation of downstream water bodies.

3009.B **Applicability.** All construction activities that will disturb soil must implement appropriate measures to prevent erosion and sedimentation from adversely impacting nearby properties, public infrastructure or downstream water bodies (for further guidance see the Vermont Agency of Natural Resource's *Low Risk Site Handbook for Erosion Prevention and Sediment Control*). The provisions of this section apply to any land development that will disturb soil except that:

- (1) Land development that obtains a state construction general or individual permit will be assumed to have met the requirements of this section. Any zoning permit or approval will be conditional upon the applicant submitting a copy of the state permit to the Zoning Administrator prior to the start of construction.

3009.C **Erosion Control Plan Required.** Applicants must submit and implement a professionally prepared erosion control plan for construction activities that will disturb more than 10,000 square feet of soil in accordance with the *Vermont Standards and Specifications for Erosion Prevention and Sediment Control*.

3009.D **Erosion Control Practices.** Construction activities must be undertaken in accordance with the following practices:

- (1) Limit the size of the construction area to the minimum necessary to accommodate the proposed development.
- (2) Preserve significant existing trees within the construction area where possible.
- (3) Mark site boundaries to identify the limits of construction with flags or fencing. The site boundaries should include storage and access areas. No soil compaction should occur outside the delineated construction area. Trees to be preserved within the construction area should be protected by fencing that at a minimum encloses the area around their drip line.
- (4) Limit the amount of soil exposed at one time to reduce the potential for erosion by phasing construction.
- (5) Stabilize and maintain the construction entrance to prevent mud from being tracked onto roads.

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- (6) Install silt fences to intercept runoff and allow suspended sediment to settle out on the downslope side of construction activities and between disturbed soil and any drainage feature, stormwater inlet or water body.
- (7) Divert any stormwater from upslope areas around the disturbed area with appropriately stabilized berms and/or ditches to prevent the runoff from picking up sediment. Untreated stormwater and sediment must not be diverted to neighboring properties, public rights-of-way or water bodies.
- (8) Treat and filter any water pumped out of the construction area before allowing it to flow off the site or to be discharged to a storm drain or water body.
- (9) Slow any concentrated flows of runoff by installing stone check dams in drainage channels.
- (10) Stabilize exposed soil with seed and mulch or erosion control matting promptly when work in an area is complete.
- (11) Monitor the site to ensure that all sediment and erosion control measures are functioning properly. It is particularly important to check erosion control measures just before and after any significant rainfall.
- (12) Periodically clean, replace and maintain all sediment and erosion control measures until vegetation is permanently established on all disturbed areas.
- (13) In order to promote water infiltration and plant health:
  - (a) Any compacted soil should be tilled prior to the final seeding and mulching; and
  - (b) Topsoil removed during construction must be stockpiled and spread back onto disturbed areas prior to the final seeding and mulching. If the quality of the site's topsoil is inadequate to support appropriate vegetative cover, it does not need to be stockpiled and it may be replaced with better quality soil or, if it is retained, it should be amended as needed.

### **Section 3010. Stormwater Management**

**3010.A Purpose.** This section is intended to:

- (1) Minimize and/or control the quantity and quality of stormwater run-off.
- (2) Promote stormwater management methods that maintain pre-development hydrology and drainage patterns through project layout, site design, and best management practices that manage stormwater run-off as close to the source as possible.
- (3) Limit clearing and grading to the minimum needed for construction and minimize impacts to natural vegetation.
- (4) Prevent soil erosion and sedimentation resulting from non-point source pollution generated by land development.
- (5) Protect surface waters and other natural resources from degradation as a result of land development.
- (6) Minimize hazards from flooding and streambank erosion.
- (7) Prevent damage to, and reduce public expenditures associated with maintaining, municipal infrastructure resulting from inadequate stormwater controls.



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- 3010.B **Applicability.** All proposed land development that will increase the amount of impervious surface of a lot must implement appropriate measures to reduce and manage stormwater to prevent run-off from adversely impacting nearby properties, public infrastructure or downstream water bodies. The provisions of this section apply to any land development that will increase the amount of impervious surface on a lot except that:
- (1) Land development that obtains a state stormwater permit will be assumed to have met the requirements of this section. Any zoning permit or approval will be conditional upon the applicant submitting a copy of the state permit to the Zoning Administrator prior to the start of construction.
- 3010.C **Public Works Specifications.** Applicants must construct stormwater infrastructure in accordance with the Town of Milton's Public Works Specification. In the case of a conflict between a provision of these regulations and a provision of the Town of Milton's Public Works Specifications, the Public Works Specifications will govern.
- 3010.D **Design and Engineering Requirements.** Applicants must design and engineer proposed land development in accordance with low-impact site design (LID) approaches and green stormwater infrastructure (GSI) best management practices to the maximum extent practical given the site specific conditions including, but not limited to, soil characteristics and slope. Applicants proposing land development that will increase the amount of impervious surface on a lot by:
- (1) 5,000 square feet to 10,000 square feet must demonstrate that appropriate stormwater best management practices will be implemented based on the GSI Simplified Sizing Spreadsheet.
  - (2) 10,000 square feet or more must submit and implement a professionally prepared stormwater management plan in accordance with the *Vermont Stormwater Management Manual*.
- 3010.E **Best Management Practices.** Land development that will increase the amount of impervious surface on a lot by 5,000 square feet or more must be designed so that stormwater run-off will be routed through one or more appropriate Best Management Practices (BMPs) in accordance with the following:
- (1) BMPs must be sized and designed to capture 90% of the annual storm events, or the first inch of rainfall. (See the Simplified GSI Sizing Tool for methods and calculations.)
  - (2) Stormwater from on-site impervious roofs, roads, driveways, parking areas, sidewalks and walkways must be guided to vegetated areas, retention areas, and/or other pervious surfaces in order to promote on-site water retention and filtration.
  - (3) Applicants must demonstrate that the proposed width of all roads and driveways is the narrowest possible necessary to provide safe access and circulation in accordance with the provisions of these regulations and the Town of Milton Public Works specifications.
  - (4) Applicants must demonstrate that the proposed amount of on-site parking is the minimum necessary to meet the parking demand in accordance with the provisions of these regulations and the Town of Milton Public Works specifications.
- 3010.F **Post-Construction Soil Depth and Quality.** All disturbed areas on a site not covered by impervious surface, incorporated into a structural stormwater treatment practice, or engineered as structural fill or slope once development is complete, must conform to the following:

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- (1) The duff layer and topsoil in areas to be disturbed during construction must be removed and stockpiled on-site in a designated, controlled area that is not adjacent to surface waters, wetlands, floodplains, or river corridors. The duff layer and topsoil must be re-applied to the disturbed areas once construction activities are complete.
- (2) At project completion, the soil in disturbed areas must:
  - (a) Include a topsoil layer with a minimum depth of 8 inches except where tree roots limit the depth of incorporation of amendments needed to meet the criteria.
  - (b) Have had the subsoils below the topsoil layer scarified at least 4 inches with some incorporation of the upper material to avoid stratified layers, where feasible.
- (3) The resulting soil must be capable of supporting healthy vegetation. If the disturbed areas will be landscaped in accordance with an approved site plan, the resulting soil must be capable of sustaining the plants that will be installed.

### **Section 3011. Surface Waters, Wetlands and Riparian Buffers**

- 3011.A **Purpose.** The purpose of this section is to protect and enhance the overall quality, natural function, ecological health, scenic benefits, and recreation potential of the town's water resources by establishing riparian buffers to mitigate the impact of development on surface waters.
- 3011.B **Applicability.** The provisions of this section apply to all land within 25 feet of surface waters within the Town of Milton as mapped in the Vermont Natural Resource Atlas.
- 3011.C **General Standards.** Natural woody vegetation must be retained or allowed to re-establish within riparian buffers except that:
- (1) No new structures or uses may be located within the buffer except water-dependent structures and uses.
  - (2) Up to 20% of the area within the riparian buffer or 800 square feet, whichever is greater, may be used for water access, outdoor recreation, or outdoor seating. That area may be covered with mowed lawn, decks, patios, walkways or other impervious surfaces.
  - (3) Pre-existing structures and impervious surfaces within riparian buffers may continue to be maintained and used as established, but their configuration and/or use may only be modified in accordance with the provisions of this section.
  - (4) Invasive, hazard, sick or dying vegetation may be removed provided that woody vegetation is allowed to re-establish, and existing vegetation may be maintained within riparian buffers.
- 3011.D **Alteration of Surface Waters and Wetlands.** Property owners must not pipe, dam, fill, dredge or alter any surface water or wetland without obtaining conditional use approval from the Development Review Board, and where applicable the Vermont Agency of Natural Resources and the U.S. Army Corps of Engineers.
- 3011.E **Waivers.** The Development Review Board may allow natural woody vegetation to be removed or not re-established within the riparian buffers (in excess of the amount allowed above) if the applicant will maintain or re-establish an equivalent or greater area of contiguous natural woody vegetation within and/or abutting the riparian buffer.

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3011.F **Previously Developed Sites.** The Development Review Board may allow applicants to redevelop or modify the footprint of pre-existing structures or impervious surfaces within riparian buffer provided that the total footprint is not increased and the applicant demonstrates that:

- (1) The proposed land development cannot reasonably be accommodated on any portion of the lot outside the riparian buffer;
- (2) The proposed land development will not have new or greater (as compared to existing conditions) adverse impact on the natural functions of the surface water and land within the riparian buffer; and

3011.G He/she will maintain or re-establish natural woody vegetation in the remainder of riparian buffer.

### **Section 3012. Drive-Through Facility or Drive-In Establishment**

3012.A When drive-through facilities or drive-in establishments are specifically allowed under these regulations, they must be designed in accordance with the following:

- (1) A drive-through facility is composed of one or more stacking lanes and a service area. The stacking lane is the space occupied by vehicles queuing for drive-through service. The service area includes all the space and elements (menu boards, pick-up windows, transaction windows, speakers, automated teller machines, etc.) used to provide drive-through service.
- (2) Stacking lanes (where vehicles queue for service) and service areas must be located to the side or rear of the building.
- (3) Stacking lanes must be clearly signed, marked and separated from travel lanes.
- (4) Stacking lanes must not block access to parking, loading and service areas.
- (5) One or more designated pedestrian crossings must be provided across any stacking lane that separates parking from the building.
- (6) No stacking lane or space may be located within a minimum required setback.
- (7) Each stacking space within a stacking lane must be a minimum of 18 feet in length by 9 feet in width.
- (8) The service area must incorporate a roof overhang, canopy, awning or similar structure that provides weather protection.
- (9) Drive-through facilities and drive-in establishments must be located a sufficient distance from property lines and screened to prevent adverse impacts, including but not limited to noise and light trespass, on adjacent properties.

### **Section 3013. Energy Generation Facilities**

3013.A **Applicability.** The standards of Subsections A through D apply to energy generation facilities not exempted in Chapter 110. The standards of Subsection E apply to solar electric generation facilities regulated by the Public Service Board.

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- 3013.B **Setbacks.** An energy generation structure must be set back a distance equal to the structure's height or more from all property lines or the district minimum setback requirement, whichever is greater, except if it is building mounted.
- 3013.C **Height.** The height of an energy generation structure must conform to the following:
- (1) The height of ground-mounted solar energy generating apparatus must not exceed 35 feet.
  - (2) A solar energy generating apparatus mounted on a building wall must not extend above the lowest portion of the roof.
  - (3) A solar energy generating apparatus mounted on a building roof must not extend more than 10 feet above the roof surface.
  - (4) The height of a wind energy apparatus must not exceed 120 feet.
- 3013.D **Removal.** A facility that has been out-of-service for more than 180 days will be considered abandoned and the owner must remove it unless he/she can demonstrate to the Zoning Administrator an intent to resume the energy generation use at a specified future time.
- 3013.E **Screening Requirements.** A solar electric generation facility regulated by the Public Service Board must meet the screening requirements of Section 3204 for industrial uses.

### **Section 3014. Utility Facilities**

- 3014.A **Applicability.** The standards of this section apply to utility facilities not exempted in Chapter 110.
- 3014.B **District Standards.** Minimum lot size and frontage requirements will not apply to lots containing utility facilities.
- 3014.C **Site Security.** Utility facilities must be designed and maintained to prevent unauthorized access and protect public safety.
- 3014.D **Screening Requirements.** The perimeter of a site housing a utility facility must be screened by a buffer that:
- (1) Is at least 25 feet wide.
  - (2) Is maintained as a landscaped or natural vegetated area.
  - (3) Has a minimum of 4 large or medium trees and 20 small trees or shrubs per 100 feet.

### **Section 3015. Signs**

- 3015.A **Purpose.** The purpose of this section is to permit the use of signs for both identification and limited advertisement.
- 3015.B **Applicability.** The applicant must design and use all signs in accordance with the provisions of this section except for the following:
- (1) Traffic, directional, warning or information signs erected by any public agency.
  - (2) Official notices issued by any court, public agency or officer.

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3015.C **Permit Exemptions.** A zoning permit is required for all other signs except for the following:

- (1) Not more than 1 non-illuminated “for sale,” “for rent,” or “for lease” sign not exceeding six square feet.
- (2) Small, on-premise signs not exceeding 4 square feet per side for the direction, instruction or convenience of the public (for example, signs identifying a restroom or freight entrances).
- (3) Signs for the convenience of drive-up or walk-up customers, such as drive-through menus, provided that such display is not used to attract the attention of persons off-site.
- (4) Not more than 1 non-illuminated sign for temporary special sales not exceeding 6 square feet.
- (5) Building-mounted business entrance identification signs not exceeding 2 square feet
- (6) Sandwich boards signs as permitted by Paragraph 3015.F(3)(b).
- (7) Signs located wholly within the interior of a building.
- (8) Building-mounted bulletin boards or similar displays for announcing community affairs, political activities, and the like; provided that such display is not used to inform or attract the attention of persons off-site.
- (9) Building-mounted barber poles no greater than 36 inches in height and 9 inches in width.
- (10) Signs displaying the time, temperature, and/or date.

3015.D **Sign Limitations.** All signs must conform the following:

- (1) No sign shall prevent a clear an unobstructed view of official highway signs or approaching or merging vehicles.
- (2) No sign shall be permitted that would impede driver sight lines at the intersections of roads and driveways.
- (3) No sign shall obstruct or present a danger to pedestrian or vehicular traffic.
- (4) No sign or display shall contain string lighting, pennants, moving parts or similar attention gathering devices nor may they contain or support any device capable of emitting noise.
- (5) No sign or display shall be illuminated by flashing, moving or intermittent lights.
- (6) No private signage shall contain elements used by public agencies that would mislead or confuse the traveling public.
- (7) No sign shall be permitted which identifies or advertises a business, product, or service no longer available on the site. Any such sign shall be removed within 15 days of the date of termination for the business, product or service.
- (8) No sign shall be erected which is not on the premises of the activity serviced by the sign. The only exceptions to this provision are directional signs permitted under state statute.
- (9) No building-mounted sign may extend beyond the roofline of the building.

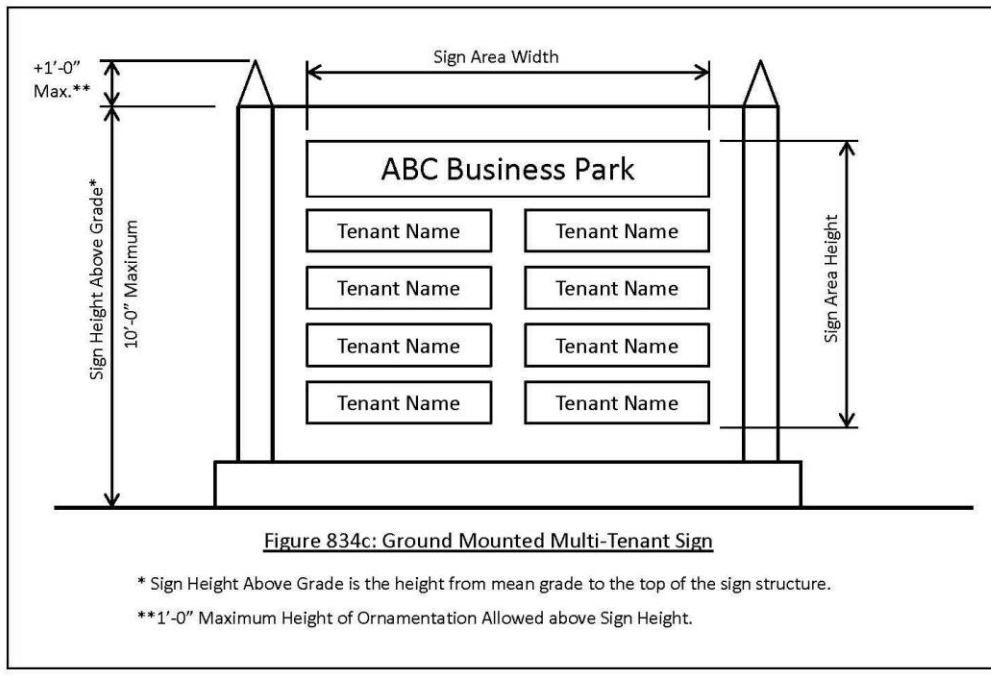
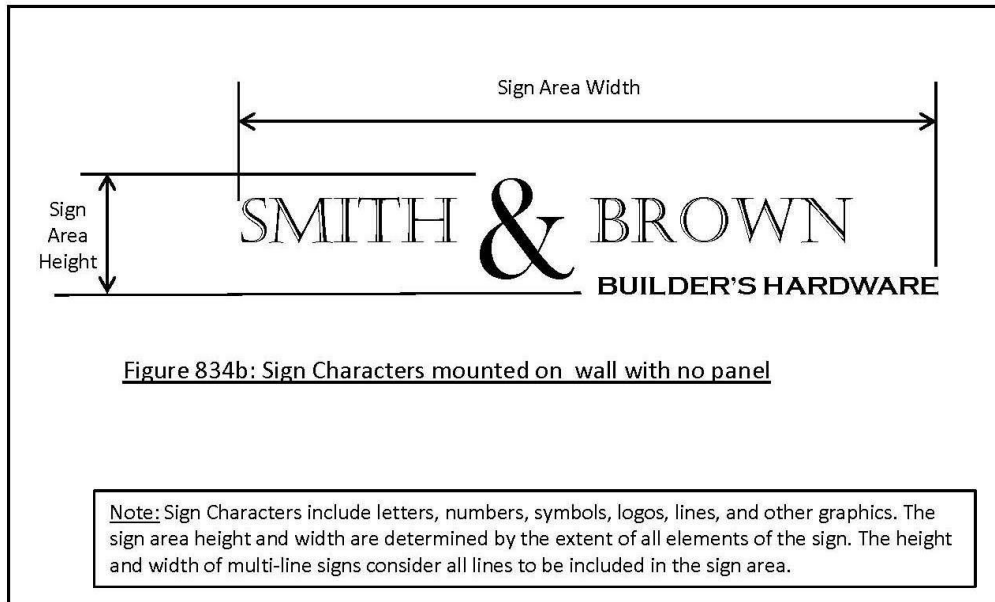
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- (10) No sign shall be illegally placed upon Town property or within a Town or State right-of-way. Such signs may be removed by the Zoning Administrator or other representative of the Town, and shall be retained by the Town for a period of at least 30 days, during which time the owner may reclaim the sign. The removal of such signs shall not preclude further enforcement.

3015.E **Standards that Apply to All Signs.** All signs shall conform to the requirements in this section.

- (1) **Area.** The sign area is the area of the smallest geometric figure, which encompasses the facing of the sign including the copy, insignia, logo, symbol, photograph, background and borders. (See figures 834a, 834b, 834c.)
- (a) In the case of signs mounted back-to-back, only one side of the sign is to be used for computation of the area. Back-to-back signs shall be defined as double-faced signs. Otherwise, the surface area of each sign is to be separately computed. In the case of cylindrical signs, signs in the shape of cubes, or other signs substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces is included in the computational area.
- (b) If a sign is attached to a ground mounted sign serving as an entrance wall, only the portion of the wall onto which either the sign faces or letters are placed shall be calculated in the sign area. Entrance wall area outside of the sign area height and width shall not be considered a part of the sign.





- (2) **Height.** The height of a sign shall be the vertical distance from the average grade level taken at the fronting street to the highest point of the sign or its supporting equipment, whichever is highest, not including the signs ornamentation.
- Ornamentation, such as caps, spires, and finials, shall not extend more than 1 foot from the top of the sign.
  - The use of berms or raised landscape areas is only permitted to raise the base of the sign to the mean elevation of the fronting street.
  - The maximum sign height for a freestanding sign for a single business shall be 15 feet.

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- (d) The maximum height for a ground-mounted multi-tenant sign shall be 10 feet (see figure 834c).
  - (3) **Illumination.** Lighting of signs shall be so placed and so shielded that rays there from will not be directly cast into the eyes of a driver. See Subsection 3205.G.
  - (4) **Setback.** No freestanding sign shall be erected closer than 5 feet from a front property line.
  - (5) **Maintenance.** All signs shall be well-maintained as provided in this section. Any sign deemed to be structurally unsafe by the Zoning Administrator shall be removed or repaired by its owner or permittee. Removal or repair shall be completed within 30 days of notification by the Zoning Administrator. If the owner or permittee fails to remove or repair the sign within the specified period, the Zoning Administrator may cause the sign to be removed at the owner's expense.
- 3015.F **Standards that Apply to Specific Signs.** The following signs may be permitted in accordance with the following:
- (1) **Business Identifications Signs** are for the purpose of identifying non-residential public facilities and businesses not located on a multi-unit site. A business identification sign may contain a product name but no pricing or other advertising information in accordance with the following:
    - (a) For principal buildings set back less than 100 feet from the front property boundary, 1 building mounted sign not exceeding 24 square feet in area and one free-standing placed near the lot's curb cut and not exceeding 24 square feet in areas is permitted.
    - (b) For principal buildings set back more than 100 feet from the front property boundary one free-standing sign placed near the lot's curb cut not exceeding 24 square feet and one building-mounted sign which may not exceed the greater of 24 square feet for each two linear feet of the width of the building face to which it is attached, provided that no such sign shall exceed 60 square feet.
    - (c) For corner lots having frontage on two public roads, the Development Review Board may permit three business signs provided that at least one of the signs is building-mounted and one of the free-standing signs is located adjacent to the site's road access. There shall be no obstruction of vision within the triangular area formed by the intersection of the edge of the two roads and a third line joining them at points 25 feet away from their intersection.
  - (2) **Product Advertising and Pricing Signs** must conform to the following:
    - (a) Not more than 1 free-standing, on-premise product advertising sign not exceeding 6 square feet per side is permitted on a lot.
    - (b) Not more than 1 free-standing, on-premise gasoline advertising sign not exceeding a total area of 32 square feet in area per side, 16 square feet of which may be for the purposes of advertising the brand of gasoline sold and 16 square feet of which may be for the purposes of indicating the price of the gasoline sold, is permitted at a fueling station.
  - (3) **Special Business Signs** must conform the following:
    - (a) **Temporary Special Event.** Not more than 1 on-premise temporary sign is permitted, not to exceed 24 square feet per side, in conjunction with the opening or closing of



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a business, a special sale, promotional event, or change in ownership or management, not to exceed 65 cumulative days in any 12-month period. If the temporary sign is a grand opening banner, the sign can be permitted for an additional 45 days and must comply with all other requirements of this section.

- (b) **Sandwich Board Signs.** Not more than 1 on-premise sandwich board sign is permitted per business, not to exceed 9 square feet per side and shall be placed no closer than 5 feet from a front property line and must be removed daily.
- (c) **Home Occupation.** Not more than 1 on-premise sign not exceeding 4 square feet per side identifying a private residence or a permitted home occupation.
- (4) **Multi-Unit Business Identification Signs.**
  - (a) Each business on a multi-unit site may install one building-mounted sign not exceeding the dimensions specified in Paragraph (1) above.
  - (b) Business directory signs may be permitted by the Development Review Board during site plan review where multiple businesses exist on a single site.
  - (c) Business directory signs shall not have an undue adverse impact on the character of the area. When reviewing a sign proposal, the Development Review Board shall review the following in relation to the site and the surrounding area: compatibility with the overall site plan for the property, visual impacts, lighting, landscaping and location and size.
  - (d) Such business directory and building mounted signs shall be required to conform to a set of design criteria submitted by the applicant as approved by the Development Review Board. Such criteria shall limit signs to specified typescript, minimum and maximum letter height, sign type, sign placement by specifying sign panel location or elevations, and sign colors.
  - (e) Each business within the multi-tenanted site is allowed 1 temporary sign not to exceed 9 square feet per sign face in conjunction with the opening or closing of a business, a special sale, promotional event, or change in ownership or management, not to exceed 65 cumulative days in any 12 month period. Grand opening banners are permitted for an additional 45 days and must comply with all other requirements of this section. For sandwich board signs, see Section 3015.F(3)(b).
- (5) **Non-Conforming Signs.** A non-conforming sign which is altered, extended, enlarged, or moved must be brought into full compliance with these regulations. Non-conforming signs may be removed for repair provided that they are replaced within 30 days of removal. The following signs are considered non-conforming signs:
  - (a) Signs erected prior to Milton's first sign regulations (1972) that do not conform to the standards of this section; and
  - (b) Signs lawfully erected since the effective date of these regulations that do not conform to the standards of this section.

## Chapter 310. Standards that Apply to Specific Land Uses

### Section 3101. Multi-family Housing, Upper Floor Residential and Retirement Housing

3101.A Applicants creating new residential units in a new or substantially modified multi-family housing, upper floor residential and retirement housing development must incorporate the following:

- (1) **General Open Space Areas.** Applicants must:
  - (a) Provide all new dwellings units with useable outdoor living areas, including both common open space and private open space for residents' recreation and relaxation.
  - (b) Provide usable open space that may have a dual function for stormwater treatment by incorporating green stormwater infrastructure practices such as grassy swales, vegetated swales, flow through planters, rain gardens, etc.
  - (c) Locate and configure open space so that it will be usable for recreation and/or serve functions such as screening or stormwater management. Open space must be contiguous with no dimension less than 30 feet unless the applicant can demonstrate that fragmenting the open space and/or incorporating narrow strips is necessary to protect natural resources and/or provide usable open space given site-specific conditions.
- (2) **Common Open Space.** Applicants must:
  - (a) Provide at least 400 square feet of common open space per dwelling unit. The Development Review Board may waive or modify the amount of common open space required for dwelling units located within ½ mile of a public recreation area, provided that the residents will be able to access the area via sidewalks and/or multi-use paths.
  - (b) Locate common open space(s) in a central location that serves all units, not at an extreme edge of the site.
  - (c) Design common open space(s) with seating areas or other passive recreation facilities to be shared by all residents.
  - (d) Landscape common open space(s) with trees, shrubs, and groundcover. If the space is not located on the ground, include planters that accommodate trees, shrubs, ornamental plants and groundcovers.
  - (e) Include at least one children's play area in a common open space unless the proposed development will be senior housing.
- (3) **Private or Semi-Private Open Space.** Applicants must:
  - (a) Design 65% of the dwelling units, rounded up to the nearest whole number, with a private or semi-private open space at least 60 square feet and not less than 6 feet in any dimension to be used exclusively by residents of that dwelling.
  - (b) Locate private open space in patios, balconies, decks, courtyards, or other outdoor spaces attached to individual units.
  - (c) Design private open space so there is room for a tables and chairs designed for

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outdoor use where residents can sit outside.

- (4) **Bulk Storage.** Applicants must provide each dwelling unit with a secured, bulk storage area at least 60 square feet and not less than 6 feet in any dimension to be used exclusively by residents of that dwelling so residents do not store bulk goods on outdoor balconies, patios or other places that are visible from public or residential areas. Such storage may be located within or separate from the residential unit. If such storage is located within private garages, it must be in addition to the area necessary to accommodate minimum parking requirements under these regulations.
  - (5) **Laundry.** Applicants must provide one functional in-unit washer and one functional dryer or provide a common laundry room accessible to and shared by all residents with no fewer than 2 functional washers and dryers for each 10 units.
  - (6) **Pedestrian Access.** Applicants must provide pedestrian access from the public sidewalk or street to ground-level residential entrance(s) on the facade.
  - (7) **Service Areas and Entrances.** Applicants must locate shared or common vehicular and service areas and entrances to the side or rear of buildings.
  - (8) **Under-Building/Private Garage Parking.** Applicants must provide at least 1 structured (such as open air carport beneath solar panels), under-building (such as a common parking garage under floor area), or private and restricted access garage parking space (such as an enclosed garage with door) for each dwelling unit. The applicant must locate and design any structured, under-building or private garage parking so that it will not be visible from the street or sidewalk, and if not feasible set garage entrances back from the building frontline by at least 8 feet. Private garages accessed directly from outdoors must use single-wide garage doors that are not more than 10 feet wide.
  - (9) **Visitor Parking.** Applicants must provide and designate at least 2 visitor parking spaces for every 10 units. The Development Review Board may waive this requirement if there is sufficient on-street parking adjacent to the site or shared parking.
  - (10) **Private, End-of-Trip Bicycle Parking.** Applicants must provide at least one, secure, covered and illuminated on-site bicycle parking/storage space directly accessible from a service area or entrance and not accessible to the general public for each dwelling unit. The Development Review Board may waive this requirement if private garages or conveniently accessible bulk storage with adequate space for a bicycle is already provided. See Section 3203 for secure parking standards.
  - (11) **Front Facade.** Applicants must design the front facade so that windows, porches, balconies and entryways comprise at least 30% of the length of front elevation on each floor.
- 3101.B **Mixed-Use Development.** Multi-family housing, upper floor residential, and retirement housing in a mixed-use development:
- (1) Must allocate not less than 20% of the total gross floor area of the lot's development to non-residential uses.
  - (2) Separate and screen residential open space areas from public outdoor use areas associated with non-residential uses.

**Section 3102. Home Business**

3102.A A home business:

- (1) Requires site plan approval in accordance with all applicable provisions of these regulations;
- (2) Must not have an undue adverse effect upon the character of the area;
- (3) Must not occupy more than a minor portion (<50% of the habitable floor area) of the dwelling and/or space in one or more accessory buildings;
- (4) Must have hours of operation that are limited to 7 a.m. to 7 p.m. Monday through Saturday;
- (5) Must not have more than 4 non-resident employees regularly working on-site;
- (6) Must not be primarily retail in nature, except that retail sales of goods manufactured on the premises and ancillary sales of products directly related to the provision of a personal service (e.g. sales of hair care products by a hair stylist) will be allowed;
- (7) May have signage in accordance with Section 3206 of these regulations; and
- (8) May have outdoor storage and use areas in accordance with Section 3207 of these regulations.

**Section 3103. Campground**

3103.A A campground:

- (1) Must not operate between November 1 and March 31 except that primitive campsites accessory to a lawful park or recreation area may be occupied year-round.
- (2) Must not exceed 10 campsites or cabins per acre.
- (3) Must designate campsites on the site plan and may not locate a site within setbacks.
- (4) Must have a resident manager. This provision will not apply to a site that provides primitive campsites as an accessory use to a park or recreation area.
- (5) May include one single-family dwelling for the campground manager, which may be occupied year-round.

**Section 3104. Bed-and-Breakfast**

3104.A A bed-and-breakfast:

- (1) Requires site plan approval in accordance with all applicable provisions of these regulations.
- (2) Must be located within a single-family dwelling, an accessory building to a single-family dwelling, and/or a lawfully converted farm structure.
- (3) Must not have more than 6 bedrooms that are used to house guests.
- (4) Must not house any guest for a continuous period of more than 29 days.
- (5) Must have a resident manager.
- (6) Must not offer meals to the general public.

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- (7) Must not have guest parking that is located between the building and the street except within a lawful driveway.
- (8) May have signage in accordance with Section 3206 of these regulations.

### **Section 3105. Inn**

#### **3105.A An inn:**

- (1) Requires site plan approval in accordance with all applicable provisions of these regulations;
- (2) Must be located within a single-family dwelling, an accessory building to a single-family dwelling, and/or a lawfully converted farm structure.
- (3) Must not have more than 1 bedroom for housing guests per 500 square feet of gross floor area in the dwelling and/or any associated structures used to house guests.
- (4) Must not house any guest for a continuous period of more than 29 days.
- (5) Must have a resident manager.
- (6) May include accessory uses that are open to the general public such as restaurants, event venues or spas with conditional use approval from the Development Review Board.
- (7) Must not have guest parking that is located between the building and the street except within a lawful driveway.
- (8) May have signage in accordance with Section 3206 of these regulations.

### **Section 3106. Rooming or Boarding House**

#### **3106.A A rooming or boarding house:**

- (1) Requires site plan approval in accordance with all applicable provisions of these regulations.
- (2) Must be located within a single-family dwelling.
- (3) Must not have more than 6 bedrooms that are used to house boarders.
- (4) Must not house any boarder for a continuous period of less than 30 days.
- (5) Must be operated by a resident of the single-family dwelling.
- (6) Must not offer meals to the general public.
- (7) Must not allow boarders to park between the building and the street except within a lawful driveway.

### **Section 3107. Hotel or Motel**

#### **3107.A A hotel or motel:**

- (1) Must not have more than 1 guestroom per 500 square feet of gross floor area.

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- (2) Must not house any guest for a continuous period of more than 29 days unless approved by the Development Review Board as an extended stay hotel or motel in accordance with the following:
  - (a) All guest rooms designed or used for extended stay occupancy must be a minimum of 500 square feet and must have an additional 75 square feet for each additional occupant in excess of two people (ex. guest rooms designed and occupied by 3 people would have to be a minimum of 575 square feet).
  - (b) All guest rooms designed or used for extended stay occupancy must include full bathroom and kitchen facilities. A full bathroom includes a toilet, sink, and a bathtub, shower or bathtub/shower combination. A full kitchen includes a sink, a refrigerator, and a stove, range top or oven. The bathroom and kitchen facilities must be maintained in working order for the room to be used for extended stay occupancy.
  - (c) No more than 4 adults may occupy any extended stay room.
  - (d) No outdoor storage is allowed except for the parking of operable motor vehicles registered to a guest staying on the premises.
  - (e) There must be a minimum of 100 square feet of usable open space suitable for passive recreation and accessible to all guests for each extended stay guest room. The open space area must not be less than 30 feet in any dimension.
- (3) May include accessory uses that are open to the general public such as restaurants, event venues, meeting spaces, fitness clubs or spas with conditional use approval from the Development Review Board.

### **Section 3108. Motor Vehicle Repair or Service**

3108.A A motor vehicle repair or service establishment must conform to all of the following:

- (1) All repair or service activities must be carried out within an enclosed building.
- (2) All body work and painting must be carried out within a fully enclosed building with a properly functioning ventilation system that meets state and federal requirements.
- (3) Lubrication equipment, vehicle washing equipment, and hydraulic hoists and pits must be located within an enclosed building with fluid clean-up, drainage and collection systems that meet state and federal requirements.
- (4) Vehicles must be parked outside minimum required setbacks, including vehicles awaiting repair or pick-up.
- (5) All outdoor storage of vehicles, vehicle parts, tires, refuse or other materials must be in accordance with Section 3207.
- (6) A non-operable, disabled, wrecked or partially dismantled vehicle must not be stored outside an enclosed building for more than 90 days except within a lawful salvage yard unless the vehicle is in the being certified as an abandoned motor vehicle by a motor vehicle and repair or service use providing towing services.

**Section 3109. Carwash**

3109.A A carwash that is established as a permanent use:

- (1) Must be designed and operated so that all washing and mechanized drying activities occur within an enclosed building except that self-service bays may be open on two sides.
- (2) Must contain all wastewater on-site and prevent it from running off the property or into public storm drains.
- (3) Must have properly functioning wastewater capture and recycling systems.

**Section 3110. Salvage Yard**

3110.A **Applicability:**

- (1) A salvage yard commencing operations after January 1, 1994 shall be located within a zoning district permitting the use and shall require conditional use approval and site plan approval in accordance with these regulations, as well as an approved "Certificate of Approval for Location" from the Selectboard in accordance with state statute.
- (2) Notwithstanding the above, salvage yards which have been granted a conditional use approval for a salvage yard or have been issued a "Certificate of Compliance" pertaining to a salvage yard from the Development Review Board prior to January 1, 1994 are exempt from the provisions of this Section, and are eligible to apply for a "Certificate of Approval for Location" from the Selectboard. Non-conforming, licensed salvage yards shall still be subject to the provisions of Chapter 130. Changes in ownership of licensed salvage yards shall still be subject to obtaining a "Certificate of Approval for Location" for the new owner from the Selectboard.

3110.B **Required Findings for Conditional Use.** In addition to those findings required under Chapter 330 of these regulations, the Development Review Board must find in the affirmative that the subject salvage yard complies with the following standards and criteria:

- (1) The application must qualify as a salvage yard as defined by these regulations.
- (2) The salvage yard must be found to have been created prior to January 1, 1994, and must further be found to have been in existence for a period of 12 months or longer, as determined by evidence provided by the applicant; such as, but not limited to, purchase and sales tax receipts or other income tax documentation, dated videotapes, and dated photographs.
- (3) The salvage yard must be found not to contribute to water or air pollution, to the extent that it presents a hazard to public health and safety, as determined by a Level I Site Assessment and site inspection by a certified engineer who is qualified to conduct hazardous waste surveys. A Level II Site Assessment will be required if recommended by the Level I Site Assessment submitted in accordance with this section and the results of the site inspection.
- (4) The salvage yard will not adversely affect the scenic character or quality of the area in the immediate vicinity, as viewed from any public road, highway, private right-of-way or adjacent property, nor will it adversely affect the health or safety of the community.

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3110.C **Application Submission Requirements for Conditional Use.** The following information is required to be submitted by the applicant in order to assist the Development Review Board in making its findings that the use satisfies the criteria above:

- (1) Number of vehicle trips per day based on peak seasons;
- (2) A survey of the lot by a licensed land surveyor containing the salvage yard, with detailed information showing:
  - (a) Lot dimensions and acreage,
  - (b) All structures and storage areas,
  - (c) Setbacks and lot coverage of all structures and storage areas,
  - (d) Existing and proposed landscaping and fencing,
  - (e) Driveways and traffic circulation,
  - (f) Parking and loading spaces,
  - (g) Names of owners of record of adjacent properties,
  - (h) Location of water and wastewater,
  - (i) Location of "control area" for waste disposal (such as, but not limited to, disposal of radiators, batteries, petroleum), and location and construction specifications of existing and proposed waste storage containers;
- (3) Information from a certified engineer indicating the capacity of the existing wastewater system, and its capability to handle the present and/or future use of the salvage yard;
- (4) A copy of the Level I and/or Level II Site Assessment, as prepared by the Town's consulting engineer, retained by the Town and paid for by the applicant. The applicant shall establish an escrow account of a minimum of \$2,500.00 prior to the engineer commencing the Level I Site Assessment and site inspection. In the event that the Level I Site Assessment and site inspection amount to less than \$2,500.00, the applicant shall be reimbursed the amount remaining in escrow. In the event that the applicant does not wish to use the services of the Town's consulting engineer, the Town and applicant shall mutually agree to using a different consulting engineer. In this case, the applicant shall pay the engineer directly. The applicant shall forward copies of the Site Assessment(s) to the State Health Department, Agency of Natural Resources--Environmental Conservation Department, Regional District Environmental Board Office, Agency of Transportation--Department of Motor Vehicles, and Emergency Management--Hazardous Materials Division, only in the event that the Site Assessment(s) identified groundwater contamination; and
- (5) Photographs and/or videotapes of the currently existing salvage yard operation.

3110.D **Other Application Requirements.** In addition to all required procedures for conditional use review, the applicant shall send the official legal warning for the conditional use review via certified mail, return receipt requested, to the owner of each lot that is within a 300-foot radius of the boundary of the lot containing the salvage yard; this mailing must occur not less than 15 days prior to the public hearing.



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- (1) The applicant shall provide a list of all property owners within the required radius to the Zoning Administrator who shall ensure satisfactory compliance with this Section prior to the mailing of the certified letters. Prior to the public hearing for the conditional use approval, the applicant shall provide the acting Chair of the Development Review Board with all certified mailing receipts and any returned envelopes. The Zoning Board shall check to ensure that all property owners have either received a copy of the meeting warning via certified mail, or have attempted to have been reached by certified mail.

3110.E **Requirements for All Salvage yards Granted Conditional Use Approval by the Development Review Board.** In addition to the conditions and safeguards attached to the granting of any conditional use in these regulations, any salvage yard that is granted conditional use approval by the Development Review Board shall be subject to the following conditions which may not be waived:

- (1) The salvage yard shall not be expanded in terms of square feet of operable space, number of vehicle trips generated or volume of service, unless otherwise specified in the approval of the Development Review Board as to maximum permissible expansion.
- (2) Salvage yards shall be screened from view from any public road, private right-of-way and adjacent property during all seasons of the year. Screening may be in the form of a natural barrier (such as vegetation or topography), or an artificial barrier (such as an earthen berm, fence, or other method approved by the Development Review Board). The Development Review Board may recommend a combination of both.
- (3) Screening shall be a minimum 10 feet in height and of a material satisfactory to the Development Review Board in order to screen all of the junk contained within the salvage yard from view. The Development Review Board may require the salvage yard be entirely enclosed by fencing if it determines the existing or proposed screening does not shield the salvage yard from view. All existing vegetation outside and proximate to a fence or other artificial barrier shall be retained to aid in maintaining a natural appearance. If no natural vegetation is present, or is inadequate to buffer the artificial barrier, the Development Review Board may require the planting of vegetation in order to achieve a natural appearance of the barrier.
- (4) A performance bond or other form of security shall be required to guarantee the completion of the screening during the Site Plan process.
  - (a) The crushing of automobiles shall be done only between the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday.
  - (b) No open fire for the burning of rubbish, trash, automobile parts, or other waste matter shall be permitted at any time without the prior written approval of the Chief of the Town of Milton Fire Department.
  - (c) Noise in excess of 90 decibels shall be prohibited during the hours of operation of the salvage yard.
  - (d) The applicant shall be required to obtain a "Certificate of Approval for Location" from the Selectboard in accordance with state statute and Site Plan approval from the Development Review Board in accordance with these regulations, upon conditional use approval by the Development Review Board.

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- 3110.F **Licensing Requirements.** Salvage yards granted conditional use approval from the Development Review Board in accordance with this section shall obtain a "Certificate of Approval for Location" from the Selectboard. Salvage yards are also required to renew their "Certificate of Approval for Location" with the Selectboard within the timeframe indicated in the "Certificate of Approval for Location". In the event that the applicant does not renew the "Certificate of Approval for Location" within the specified timeframe, the applicant shall be required to obtain conditional use approval from the Development Review Board in accordance with this section prior to the reissuance of the "Certificate of Approval for Location" by the Selectboard.
- 3110.G **Violation and Penalties.** Nothing in this section shall be deemed to exclude any applicant from all requirements of subsequent or previous part or chapter of these regulations. Any person violating this section shall be subject to fines and penalties as provided in these regulations. Any person violating any of the provisions of the Zoning Regulations shall become liable to the Town for any expense, loss or damage occasioned in Town by reason of such violation. Any fines imposed under these regulations may be recovered in a civil action brought to enforce the terms of the Regulations, which may also include an application for injunctive relief and the recovery of all costs and legal fees incurred by the Town in any such enforcement proceeding.

### **Section 3111. Fueling Station**

- 3111.A A fueling station must conform to all of the following:
- (1) All fuel pumps and islands must be set back at least 30 feet or the district minimum from all property lines, whichever is greater.
  - (2) Fuel pumps and islands may only be located between the principal building and the street if there is no canopy or if the canopy is designed to:
    - (a) Be architecturally integrated with the building through use of similar forms, materials, and architectural elements rather than being a standard corporate or franchise design that bears no relationship to the associated building;
    - (b) Not have internally illuminated fascia; and
    - (c) Not be greater in height than the principal building.
  - (3) Canopies must be set back at least 20 feet from all property lines or the district minimum, if greater.
  - (4) Light fixtures must be recessed into the underside of the canopy so as not to protrude below the canopy surface by more than 2 inches. Canopy lighting must be in accordance with Paragraph 3205.H(3).
  - (5) Pricing signs attached to the canopy must not extend above the top edge or roofline of the canopy or below the bottom edge or underside of the canopy.
  - (6) A convenience store may be an accessory use to a fueling station.
- 3111.B Electric vehicle charging stations permitted as an accessory use within an approved parking area will not be subject to the provisions of this section.

**Section 3112. Mini-Warehouse or Self-Storage Facility**

3112.A Mini-warehouse or self-storage facilities must conform to all of the following:

- (1) Facilities may only develop on lots without water and sewer mains within 100 feet of property's boundary.
- (2) All mini-storage buildings on the premises must be compatible in scale, orientation, design, materials and color with one another. The building exteriors must use muted or neutral colors that would help blend the buildings into the surrounding landscape and must not use intense or vibrant colors or patterns that would call attention to the buildings.
- (3) Outside or unenclosed storage is prohibited.
- (4) Storage of hazardous materials, hazardous waste, industrial solid waste, medical waste, municipal solid waste, septage or waste oil is prohibited.
- (5) A storage unit renter must not engage in vehicle or equipment maintenance or repair, use of tools or equipment, product display, sales or demonstration, or any use or activity other than storage of property on the premises.

**Section 3113. Adult Entertainment**

3113.A The purpose of this subsection is to mitigate the adverse secondary impacts associated with adult entertainment facilities while not unduly limiting freedom of speech and expression. Restrictions on the location and operation of such facilities are necessary to protect residential neighborhoods, civic institutions and public gathering places from the adverse secondary impacts associated with adult entertainment facilities including, but not limited to, crime, nuisance, disturbance of public order and indecency, and to protect public health, safety and welfare.

3113.B Adult entertainment uses may be allowed following review and approval by the Development Review Board as a conditional use and in accordance with the following:

- (1) Adult entertainment must be identified as a permitted or conditional use in the zoning district.
- (2) Adult entertainment must not be located within 600 feet of an existing grade school, library, daycare facility, religious facility or public park. This distance will be measured from the property line of the subject lot to the nearest property line of the lot housing one of the listed uses. If a grade school, library, daycare facility, religious facility or public park subsequently locates within 600 feet of a lawfully existing adult entertainment use, this provision will not be used to eliminate or restrict that adult entertainment use.
- (3) Adult entertainment not located within the same building must be separated from one another by at least 1,000 feet. This distance will be measured from the property line of the subject lot to the nearest property line of another lot housing an adult entertainment use.
- (4) Adult entertainment must be setback 150 feet from a public road.

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- (5) Adult entertainment must not have any storefront window, marquee, sign or other display visible from a public vantage point depicting or portraying specified anatomical areas or specified sexual activities.
- (6) Adult oriented merchandise must not be displayed in a location that would be visible from a public vantage point.
- (7) Adult entertainment uses may be identified with signage in accordance with Section 3206. All text, symbols, logos or other graphics advertising an adult entertainment use must use only terms and imagery that would be typical and expected for a comparable non-adult entertainment use and appropriate for a general audience.
- (8) A person under the age of 18 must not be permitted to enter or remain on the premises of an adult entertainment use. All public entrances must have warning sign indicating that only those age 18 or older may enter.

### 3113.C As used in this section:

- (1) **Adult entertainment** use means a store, theater, club, restaurant or other establishment that as a substantial component of the use offers: (a) adult oriented merchandise for sale, rental, exchange, loan or trade; (b) live or recorded performances by entertainers who are clothed to reveal or emphasize specified anatomical areas and/or whose activities include or mimic specified sexual activities; and/or (c) services by attendants who are clothed to reveal or emphasize specified anatomical areas and/or whose activities include or mimic specified sexual activities.
- (2) **Adult media** means any magazines, books, movies, photographs, recordings or other forms of communication that are distinguished or characterized by an emphasis on matter depicting, describing or related to specified anatomical areas or specified sexual activities.
- (3) **Adult oriented merchandise** means any goods, products, commodities or other wares that depict, describe or simulate specified anatomical areas or specified sexual activities including but not limited to sexually oriented toys or novelties and adult media.
- (4) **Sexually oriented toys or novelties** means any instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.
- (5) **Specified anatomical areas** means: (a) less than completely and opaquely covered human genitals, anus, pubic region, buttock, or female breast below a point immediately above the top of the areola; or (b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (6) **Specified sexual activities** means: (a) human genitals in a state of sexual stimulation or arousal; (b) acts of human masturbation, sexual intercourse, sodomy, oral copulation, or bestiality; (c) fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts, whether clothed, of oneself, or of one person by another; or (d) excretory functions as part of or in connection with any of the activities set forth in this section.

**Section 3114. Wireless Communications Facility**

3114.A **Purpose.** The purpose of this subsection is to:

- (1) Minimize the impacts of wireless communication facilities on surrounding areas by establishing standards for location, structural integrity and compatibility;
- (2) Accommodate the growing need and demand for wireless communications facilities;
- (3) Encourage the location and collocation of wireless communications equipment on existing structures in order to minimize visual, aesthetic, public safety and ecological impacts and reduce the need for additional antenna support structures;
- (4) Provide for the replacement and/or removal of nonconforming or discontinued antennas and antenna support structures; and
- (5) Respond to the policies of the Telecommunications Act of 1996 by not unreasonably discriminating between providers of functionally equivalent personal wireless service and not effectively prohibiting provision of personal wireless service in the Town of Milton.

3114.B **Applicability.** Except as specifically exempted in Chapter 110, the standards of this section apply to the installation, construction or modification of the following wireless communications facilities:

- (1) Existing and proposed antennas and supporting structures;
- (2) Replacement antennas and supporting structures;
- (3) Broadcast antennas and supporting structures;
- (4) Co-located and combined antennas on existing antenna supporting structures;
- (5) Roof-mounted antennas and supporting structures;
- (6) Surface-mounted antennas;
- (7) Stealth wireless communications facilities; and
- (8) Amateur radio antennas and support structures with an overall height greater than 50 feet.

3114.C **De Minimis Impact.** The Zoning Administrator may administratively approve and issue a zoning permit for an application for a wireless communication facility if he/she determines that it conforms to all applicable provisions of these regulations and imposes no or de minimis impact on any criteria established in these regulations. The Zoning Administrator will only consider an application to have a de minimis impact if it meets all of the following:

- (1) The height and width of the facility or support structure, excluding equipment, antennas or ancillary improvements, will not increase;
- (2) The total amount of impervious surface, including access roads, associated with the facility or support structure will not increase by more than 300 square feet;
- (3) Any addition, modification or replacement of an antenna or other equipment will not extend vertically more than 10 feet above and horizontally more than 10 feet from the facility or support structure; and

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- (4) Any additional or replacement equipment, antennas or ancillary improvements, excluding cabling, will not increase the aggregate surface area of the faces of the equipment, antennas or ancillary improvements on the facility or support structure by more than 75 square feet.

3114.D **Application Requirements.** In addition to all other applicable requirements, the applicant must demonstrate that:

- (1) The radio frequency emissions will comply with Federal Communications Commission (FCC) standards for such emissions.
- (2) The proposed wireless communications facility has been designed to withstand sustained winds of 110 mph and at 15-second wind gusts of 130 mph.
- (3) The proposed antenna supporting structure has been designed so that, in the event of a structural failure, the facility will collapse within the boundaries of the lot on which it is located as attested to by a qualified professional engineer.
- (4) The applicant has an FCC license, and construction development approval if applicable, to transmit radio signals in the Town of Milton.
- (5) The proposed wireless communications facility complies with Federal Aviation Administration regulations of objects affecting navigable airspace.
- (6) The support structure can support the proposed and any planned future antennas by providing a stamped structural analysis prepared by a professional engineer.
- (7) The coverage area that will be served by the proposed facility is not adequately served by existing providers and facilities.

3114.E **Siting Priorities.** An antenna supporting structure may only be permitted upon the applicant demonstrating that the proposed antenna cannot be accommodated on an existing structure or by construction of a stealth facility. In order to justify the construction of an antenna supporting structure, the applicant must provide a statement of position, qualifications and experience by a licensed radio frequency engineer demonstrating that the alternatives below (listed in order of preference) do not constitute feasible alternatives:

- (1) Collocated or combined antennas;
- (2) Surface-mounted antennas;
- (3) Roof-mounted antenna supporting facility; and
- (4) Stealth wireless communications facility.

3114.F **Collocated or Combined Antennas.** The following standards will apply to all collocated or combined antennas:

- (1) Collocations must not increase the overall height of an antenna supporting structure except in accordance with Subsection 3114.J, below.
- (2) Antenna supporting structures and ancillary appurtenances, including transmission lines, must maintain a galvanized gray finish or other contextually-compatible color as determined by the Development Review Board, except as otherwise required by the FAA and FCC.

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3114.G **Surface-Mounted Antennas.** The following standards will apply to all surface-mounted antennas:

- (1) Surface-mounted antennas and associated ancillary appurtenances must maintain a color that is the same as the surface to which they are attached unless the Development Review Board finds that another color will be more contextually compatible.
- (2) Transmission lines must be camouflaged or otherwise shielded with an appropriate material that is the same color as, or a color consistent with, the structure to which they are attached.
- (3) Surface-mounted antennas must be placed at least 15 feet above the ground.

3114.H **Roof-Mounted Antenna Supporting Facilities.** The following standards will apply to all roof-mounted antennas:

- (1) The roof-mounted antenna, attachment device, equipment enclosure, and/or any ancillary appurtenance must not extend above the roof line of the building to which it is attached by more than 20 feet.
- (2) Roof-mounted structures must have a monopole-type construction.
- (3) Roof-mounted structures, ancillary appurtenances, and equipment enclosures must maintain a galvanized gray finish unless the Development Review Board finds that another color will be more contextually compatible.
- (4) Transmission lines placed on the exterior of a building must be camouflaged or otherwise shielded with an appropriate material that is the same color as, or a color consistent with, the structure to which they are attached.
- (5) Roof-mounted structures must be screened by a parapet or other device as necessary to minimize their visual impact from the lot lines of the subject property. Roof-mounted facilities must be placed as near to the center of the roof as possible.

3114.I **Stealth Wireless Communications Facilities.** A stealth facility must not have antennas or ancillary equipment that is readily identifiable from a public vantage point as wireless communications equipment. Stealth facilities must be designed so that they are reasonably consistent with the surrounding built or natural environment. In order to determine compliance with this requirement, the applicant must demonstrate that:

- (1) The overall design, height, scale and color of the proposed facility is compatible with and blends into the surrounding built and natural environment;
- (2) The proposed facility has been designed to reasonably replicate a contextually-appropriate non-wireless structure or feature (ex. silo, flagpole, or tree); and
- (3) The proposed facility is not readily identifiable as a wireless communications facility.

3114.J **Antenna Supporting Structures.** The following standards will apply to all antenna supporting structures:

- (1) Antenna supporting structures must be set back a distance at least equal to their overall height from all lot lines (this does not include any guy-wire anchors). A nonconforming replacement structure must not be placed any closer to a lot line than the original structure and the height must not be increased if the minimum setback cannot be met.

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- (2) Antenna supporting structures (including guy-wire anchors) must not be located within public rights-of-way. This will not be interpreted to prevent mounting of antennas on existing structures, such as utility or light poles, within public rights-of-way.
- (3) Antenna supporting structures and ancillary appurtenances, including transmission lines, must maintain a galvanized gray finish or other contextually-compatible color as determined by the Development Review Board, except as otherwise required by the FAA and FCC.
- (4) No lights, signals or other illumination will be permitted on any antenna supporting structure or ancillary appurtenances unless the applicant demonstrates that lighting is required by the Federal Aviation Administration (FAA) or Federal Communications Commission (FCC).
- (5) Signs must not be placed on antenna supporting structures, ancillary appurtenances, equipment enclosures, or any fence or wall except for hazard notification and identification signs as required by state or federal regulations.
- (6) A fence at least 8 feet in height from the finished grade with a locked gate must enclose the base of the antenna supporting structure and associated equipment enclosures.

### Section 3115. Extraction

3115.A Extraction operations, including expansions to pre-existing sites, must conform to all of the following:

- (1) **Buffers.** A minimum buffer of 50 feet must be maintained adjacent to all property boundaries and road rights-of-way in accordance with the following:
  - (a) Excavation or storage of equipment or materials must not occur within the buffer.
  - (b) Natural vegetation must be maintained or supplemented with fencing, berms and/or landscaping as needed within the buffer to screen the extraction operation as viewed from public vantage points and developed areas on adjoining property.
- (2) **Application Requirements.** In addition to all other applicable requirements, the applicant must demonstrate that the proposed extraction activity will:
  - (a) Not result in a danger to life or property due to: steep or unstable slopes; unsafe access to the property; excessive traffic; or proximity to existing or planned residences.
  - (b) Adequately mitigate visual, noise, dust and/or excessive on- or off-site environmental impacts.
  - (c) Adequately mitigate the effects of the use of trucks and heavy equipment on road safety and maintenance and will not cause excessive congestion of public roads providing access to the site.
  - (d) Not adversely affect the quality of air, groundwater or surface water, and will minimize impacts of significant ecological resources and natural communities.
  - (e) Not result in negative impacts on drainage patterns or stormwater management facilities.
  - (f) Adequately restore the site following completion of the excavation activity so that



upon completion any adverse affects to scenic quality, natural landscapes, wildlife or habitat will be mitigated.

- (g) Provide buffers to screen unsightly features of the excavation operation year-round from public vantage points and adjoining properties.
  - (h) Will be appropriate in intensity and anticipated duration given the size and location of activity.
- (3) **Operational Standards.** The following minimum operational standards will apply to all excavation operations unless otherwise approved by the Development Review Board:
- (a) Any topsoil removed from the surface and retained on the site for reapplication to disturbed areas during reclamation must be carefully removed and stockpiled to prevent erosion.
  - (b) An excavation operation must not cause the permanent lowering of the water table on surrounding properties.
  - (c) An excavation operation must not cause the drainage of a wetland except as permitted by the Vermont Agency of Natural Resources.
  - (d) Excavation activity must not occur within riparian buffers as established in Section 3011.
  - (e) Operational activities, including blasting, excavation, processing and hauling are prohibited between the hours 7 p.m. (or dusk if earlier) and 7 a.m. (or dawn if later). The Development Review Board may further limit hours as deemed necessary to mitigate impacts to adjacent properties and roads.
  - (f) The Development Review Board may impose fencing requirements as deemed necessary to protect safety and general welfare in the area.
  - (g) All equipment and machinery must be operated and maintained in such a manner as to minimize dust, noise and vibration. Access and haul roads must be maintained in a dust-free condition by surfacing, watering or other treatment on a regular basis.
- (4) **Reclamation Standards.** Sites must be reclaimed at the completion of extraction activities in accordance with the following:
- (a) No approvals or permits for subsequent land development on the extraction site will be issued prior to reclamation of the site.
  - (b) Topsoil capable of sustaining vegetative growth must be provided and evenly spread on all disturbed areas.
  - (c) Disturbed areas must be stabilized and seeded at the earliest possible time following completion of extraction operations in an area in accordance with the site's approved erosion control plan. Progressive reclamation practices must be implemented to continue to reclaim and stabilize disturbed areas as extraction occurs on the site. Final reclamation of each phase must be completed within 6 months of the completion of each phase of the operation.
  - (d) All equipment, stockpiles, debris, signs, and other materials or improvements associated with excavation must be removed from or lawfully buried on the site after completion of the extraction activity.

- (e) Erosion control measures must be kept and maintained in place until permanent vegetation has been established on the site and erosion will be naturally controlled.

**Section 3116. Commercial Outdoor Shooting Range**

3116.A Commercial outdoor shooting ranges must conform to all of the following:

- (1) Must be sited on a lot at least 100 acres in size.
- (2) Minimum front, side and rear yard setback shall be 1,000 feet or twice the length of the shot fall area of facility-permitted firearms; whichever is greater.
- (3) Backstop devices must be constructed to effectively stop bullets fired on a range on site.
- (4) Overhead baffles must be placed to prevent direct fire from exiting the range.
- (5) The site must be posted and fenced from unauthorized entry.
- (6) The Development Review Board may require sound abatement measures, such as vegetative buffering, baffles or culvert muffling.
- (7) The Development Review Board may reasonably limit noise trespass specific to the site's conditions to preserve the character of the area.
- (8) The Development Review Board may limit operation during weekends and holidays to preserve the character of the area.
- (9) Maintenance of an outdoor shooting range shall be in accordance with the best management practices set forth by the United States Environmental Protection Agency (US EPA) and shall minimize the potential for soil and water pollution due to lead contamination. An environmental management plan, which demonstrates the application of best management practices, must be part of the conditional use application. The format of the environmental management plan shall follow the basic guidelines set for the by the US EPA in the guidance documents "Best Management Practices for Lead at Outdoor Shooting Ranges".
- (10) The siting of the use shall be so that the shot fall area is not located on water bodies or wetlands and is contained wholly on the lot.

**Section 3117. Agricultural Enterprise**

3117.A **Purpose.** The purpose of this section is to accommodate agricultural enterprises that are compatible in use, scale and intensity with maintaining the town's rural character and supporting economically viable farm and/or forest lands in the town and region by:

- (1) Adding value to local farm or forest products;
- (2) Direct marketing of local farm or forest products;
- (3) Engaging in agritourism or education; and/or
- (4) Offering goods or services needed for farming or forestry.

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3117.B **Applicability.** Agricultural enterprises are allowed in specified districts as accessory uses to principal agriculture uses on lots that:

- (1) Are not less than 10 acres in size;
- (2) Are accessed from a Class 3 town highway or better;
- (3) Are not part of a conservation planned unit development; and
- (4) May or may not contain a principal single family dwelling.

3117.C **Setbacks.** All land development associated with the agricultural enterprise other than agriculture and forestry practices must be set back at least 200 feet from any abutting residential lot.

3117.D **Allowed Uses.** In addition to the uses allowed in the zoning district, the Development Review Board may grant site plan and conditional use approval for any of the uses listed below as an agricultural enterprise subject to the use criteria in Subsection (E) below.

- (1) Bed and breakfast or inn
- (2) Retail sales
- (3) Lawn, garden and farm supply sales
- (4) Lumber yard and building supply sales
- (5) Open market
- (6) Food or beverage stores
- (7) Veterinary service (for livestock only)
- (8) Restaurant
- (9) Event facility
- (10) Light industry
- (11) Food or beverage manufacturing
- (12) Handcrafted or artisanal manufacturing
- (13) Museum
- (14) Specialty school
- (15) Greenhouse or nursery
- (16) Outdoor recreation
- (17) Stable or riding facility
- (18) Agricultural support service
- (19) Firewood production or sawmill
- (20) Fishing and game preserves

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3117.E **Use Criteria.** To qualify as an agricultural enterprise, the applicant must demonstrate that the proposed use conforms to the following criteria:

- (1) Any retail, food service or industrial use will be dependent on locally produced farm or forest products, and such products will be an essential component and distinguishing hallmark of the use.
- (2) Any lodging, camping, entertainment, event or educational use will provide guests, visitors or students with an opportunity to learn about or interact with farming or forestry operations, and that activity will be an essential component and distinguishing hallmark of the use.
- (3) The total combined floor and site area devoted to retail sales will not exceed 12,000 square feet.
- (4) The use will not generate more than 4 truck trips per day, if the proposed use will be accessed from a town road.
- (5) Any new structures or changes to existing structures to accommodate the proposed use will be compatible in scale, form, materials and design of the traditional farmhouses or agricultural structures found in Milton's rural areas.
- (6) Any parking required for the proposed use will be sited and designed in a manner that maintains rural character and is not visually prominent from the road. Applicants must accommodate all parking on-site and off-street. Development Review Board may waive or modify parking requirements as needed to fit parking into the working landscape and accommodate the needs of the proposed use (ex. allow special event parking on an otherwise unimproved field).
- (7) The Development Review Board may attach conditions that apply the performance standards of Section 3208.

### **Section 3118. Fireworks Sales**

3118.A A fireworks sales use must conform to all of the following:

- (1) Fireworks sales may only be approved as a principal use.
- (2) Sales may only occur from June 20<sup>th</sup> to July 5<sup>th</sup>.
- (3) Sales and product displays must be set back at least 50 feet from the property boundary and any other structure.
- (4) The location of the structure must be set back at least 50 feet from the property boundary and any other structure.
- (5) The structure must not contain residential uses.
- (6) Parking shall be provided in accordance with the parking requirements of Section 3003.
- (7) A person over the age of 18 shall be present to supervise the operation at all times.
- (8) Sales may only occur between the hours of 8:00 a.m. and 8:00 p.m.

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- (9) Fireworks intended for sale may not be stored for a period of more than 30 days in any location unless the site is approved for an industrial warehouse or storage service, this shall not mean a self-storage facility and no fireworks consumer sales may occur at a long-term storage facility.
- (10) Products may only be sold to consumers with a valid consumer fireworks/display permit from the Town and the establishment must maintain copies of all customers' permits.
- (11) Large fireworks products subject to federal jurisdiction may only be sold to consumers with a valid permit from the U.S. Bureau of Alcohol, Tobacco & Firearms and the establishment must maintain copies of all customers' permits.
- (12) The Zoning Administrator may periodically inspect operations and permits to ensure zoning compliance with these standards.
- (13) The state fire marshal, deputy fire marshal, state police, county sheriff, deputy sheriff, or police officer may seize any fireworks in accordance with 20 V.S.A. § 3131.

3118.B As used in this section:

- (1) **Fireworks** means any combustible or explosive composition, or any substance, or any combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation as defined by 20 V.S.A. § 3131.

## Chapter 320. Site Plan Standards

### Section 3201. Applicability

- 3201.A Applicants must obtain site plan approval in accordance with Section 4302 before the Zoning Administrator may issue a zoning permit for any land development other than one- or two-family dwellings and accessory uses or structures to one- or two-family dwellings.
- 3201.B Applicants must submit a site plan demonstrating that the proposed land development conforms to the standards of this chapter.

### Section 3202. Parking and Loading Areas

- 3202.A **Purpose.** The purpose of this section is to ensure that proposed land development provides adequate off-street parking and loading areas to avoid congestion on surrounding streets while also avoiding excessive parking that results in increased flooding, decreased water quality, increased land consumption and sprawl, and a less attractive and pedestrian-friendly environment.
- 3202.B **Minimum Amount of Parking.** All land development must provide off-street parking as follows:
- (1) The Zoning Administrator will determine the minimum number of spaces based on Figure 3-01 unless the applicant submits a professionally prepared parking study establishing the amount of parking needed.
  - (2) An applicant seeking to construct more than twice the minimum amount of required parking must submit a professionally prepared parking study demonstrating that the additional parking is necessary for the proposed use.
  - (3) The Development Review Board may condition approval of any parking in excess of the minimum on the applicant surfacing the additional area with pervious materials and/or constructing it in phases as warranted to meet future demand.
  - (4) The Development Review Board may reduce off-street parking requirements upon the applicant demonstrating that there will be adequate parking to serve the proposed development and to that extent that:
    - (a) The applicant meets the requirements for shared or off-site parking in Paragraph 3202.C;
    - (b) The proposed development will be located in the DB1, NC1 or NC2 district;
    - (c) On-street parking exists or is proposed along the lot frontage;
    - (d) Public parking or a public transit stop exists or is proposed within ¼ mile of the proposed development;
    - (e) Proposed bicycle parking facilities exceed the minimum amenities and standards in Section 3203.
    - (f) A car share site exists or is proposed on the site; and/or
    - (g) Residential parking spaces will be leased by tenants separately from the dwelling units.

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- (5) The Development Review Board may require an applicant to provide more than the minimum amount of parking if it determines that the additional parking will be necessary for the proposed use.

**3202.C Shared or Off-Site Parking.** The Development Review Board may approve a parking plan to allow two or more uses to share parking spaces and/or for applicants to provide parking off-site as follows:

- (1) For shared parking, the applicant must calculate the total amount of parking required by:
  - (a) Determining the minimum parking requirements based on Figure 3-01 for each use sharing a parking area as if it were a separate use.
  - (b) Multiplying each amount by the corresponding percentages for each of the five periods listed in Figure 3-02.
  - (c) Calculating the total for each period.
  - (d) Selecting the highest total as the required minimum number of shared parking spaces.
- (2) The Development Review Board will require any shared or off-site parking to be:
  - (a) Located within a ¼-mile walk of the associated use(s).
  - (b) Connected to the associated use(s) by a sidewalk or hard-surfaced walkway.
- (3) The applicant must submit a written agreement between the owner(s) and lessee(s) of a shared or off-site parking area executed for a minimum of 20 years.
  - (a) Should the use(s), parties involved, or terms of the agreement change in a manner that would alter the amount of parking provided or required, the applicant must submit a revised agreement for review and approval by the Zoning Administrator in accordance with this section.
  - (b) Should the agreement expire or otherwise terminate, the use(s) associated with the shared or off-site parking will be in violation of these regulations unless the applicant provides replacement parking in accordance with this section.
- (4) The applicant must submit plans showing:
  - (a) The location of all of the use(s) or structure(s) to be served by the proposed shared or off-site parking;
  - (b) The location of the parking and required walkways (for off-site parking) in relation to the associated use(s) or structure(s); and
  - (c) For shared parking, the schedule of timing and quantity of parking each use will need.

**3202.D Loading Areas.** An application for a use that will regularly receive deliveries or generate shipments by truck must demonstrate that there will be adequate off-street space:

- (a) For loading and unloading without obstructing or interfering with parking and vehicular or pedestrian circulation within the site.
- (b) To allow trucks to turn around so that they will not have to back out into the road or back into the property from the road.

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### **3202.E Location of Parking and Loading Areas.** The applicant must:

- (1) Locate required parking and loading areas on the same site as the use or structure it serves unless the Development Review Board approves a parking plan in accordance with Subsection 3202.C.
- (2) Not locate required parking and loading areas (inclusive of vehicle overhang) within minimum front, side or rear setbacks except:
  - (a) Parking areas shared by adjoining properties may be located within a common side or rear setback provided that the Development Review Board approves a parking plan in accordance with Subsection 3202.C.
  - (b) Parking of personal vehicles is allowed within any lawful residential driveway.
- (3) Locate loading areas and service entrances to the side or rear of the building.
- (4) Not allow parking to occur on any area not designated for parking on the approved site plan.

### **3202.F Dimensional Standards.** The applicant must design off-street parking and loading areas as follows:

- (1) **Parking Spaces.** The applicant must design off-street parking spaces to be at least 9 feet wide by 18 feet deep and accessible from a driveway or access aisle except for:
  - (a) Stacked spaces within a residential driveway;
  - (b) Tandem parking (a double-depth parking space with one vehicle parking the other in) for residential or employee parking; or
  - (c) Designated large vehicle, compact car or motorcycle parking spaces as approved by the Development Review Board.
  - (d) Angled spaces, which must be designed and sized in accordance with the most current standards from the Institute of Transportation Engineers (ITE).
- (2) **Access Aisles.** The applicant must design access aisles within a parking lot or structure to be not less than 20 feet wide except that:
  - (a) One-way aisles serving angled parking spaces may be not less than 16 feet wide.
- (3) **Loading Areas.** The applicant must design any off-street loading areas:
  - (a) For single-unit trucks to have an overhead clearance of at least 10 feet and to be at least 10 feet wide and 20 feet long, exclusive of access and maneuvering area.
  - (b) For trailer trucks to have an overhead clearance of at least 14 feet and to be at least 12 feet wide and 50 feet long, exclusive of access and maneuvering area.

### **3202.G Design, Construction and Maintenance Standards.** The applicant must design, construct and maintain off-street parking and loading areas as follows:

- (1) **Pavement.** Off-street parking and loading areas must provide a firm, level surface appropriate for the anticipated level of use in all seasons as follows:
  - (a) The applicant must surface parking areas for more than 15 vehicles, drive-through lanes and large truck loading areas with asphalt, concrete, pavers or stone.
  - (b) The Development Review Board may modify the surfacing requirement for



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infrequently used parking areas, if such modifications result in improved stormwater management or would fall above the minimum required parking spaces.

- (c) The Development Review Board may require smaller parking or loading areas to be surfaced with asphalt or concrete as deemed necessary given the proposed use and/or site conditions.
- (2) **Layout.** The Town of Milton strongly encourages the applicant to use perpendicular (90 degree) parking and to avoid use of angled parking unless necessitated by site-specific conditions.
- (3) **Erosion and Drainage.** The applicant must grade, surface and maintain off-street parking and loading areas to properly manage all surface water and minimize erosion in accordance with the provisions of Section 3009 as follows:
  - (a) Run-off and/or eroded surface materials must not flow onto adjacent streets or properties.
  - (b) Run-off and/or eroded surface materials must not flow directly into surface waters or wetlands.
  - (c) The Town of Milton strongly encourages applicants to use green stormwater infrastructure practices to filter and infiltrate stormwater.
- (4) **Snow Storage.** The applicant must store snow cleared from off-street parking and loading areas without obstructing vehicular or pedestrian visibility or circulation to the maximum extent feasible given the physical characteristics of the subject property as follows:
  - (a) The applicant may store snow within a parking area provided that at least 80% of the required parking spaces on the site remain available for use.
  - (b) If adequate space for snow storage is not available on site, the applicant must remove snow as necessary and dispose of it in accordance with state regulations.
  - (c) The applicant must not clear or store snow in a manner that damages required landscaping.
  - (d) The Town of Milton strongly encourages applicants to use green stormwater infrastructure practices to filter and infiltrate snowmelt.
- (5) **Markings and Edging.** The applicant must demarcate parking spaces within any parking area with more than 10 spaces as follows:
  - (a) If the surface is paintable, the applicant must demarcate spaces with painted lines.
  - (b) If the surface is not paintable, the applicant must demarcate spaces however practical.
  - (c) The applicant must keep the markings clearly visible and distinct.
  - (d) The Town of Milton strongly encourages and the Development Review Board may require the applicant to use wheel stops, curbing, bollards or similar structural barriers to delineate the end of a parking space and prevent vehicles from entering or extending over abutting yards, landscape islands, sidewalks or walkways.
  - (e) Any area subject to vehicle overhang will not be included in the calculated area of a required walkway, island, buffer or yard.

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- (6) **Landscaping.** The applicant must landscape any parking area with more than 10 spaces as required by Subsection 3204.G.
- (7) **Electric Vehicle Charging.** The applicant:
  - (a) May provide electric vehicle charging stations within parking areas as an allowed accessory use in any zoning district.
  - (b) Will not have to provide additional parking when spaces are converted and/or reserved for charging vehicles.
  - (c) May count electric vehicle charging stations towards the minimum amount of parking required under this section.
- (8) **Maintenance.** The applicant must maintain parking and loading areas in good condition free of weeds, dirt, trash and debris.

3202.H **Previously Developed Sites.** An applicant must retrofit a previously developed site with nonconforming parking or loading when applying for major site plan approval for land development that includes a change in the amount or location of parking, or to the site layout, access or circulation as follows:

- (1) The Town of Milton's priorities for retrofitting previously developed sites are to improve access management, stormwater management and streetscape aesthetics (listed in order of priority).
- (2) The Development Review Board must find that the applicant is proposing a "best fix" that conforms with the provisions of this section to the maximum extent feasible given the physical characteristics of the lot and the existing development.

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Figure 3-01. **Minimum Parking Ratios**

USE	MINIMUM PARKING SPACES
<b>Residential and Lodging</b>	
1-bedroom retirement housing, assisted living and multi-family units	1.0 per D.U.
1-bedroom single family and duplex residential units	1.5 per D.U.
All 2-bedroom residential units	2 per D.U.
All 3-bedrooms or more residential units	2.5 per D.U.
Lodging	1.0 per guest room + 1.0 per 600 sf of public assembly space
<b>Commercial</b>	
Retail, dining or service uses with high customer turnover	1.0 per 300 sf of GFA
Retail, office or service uses with regular customer traffic	1.0 per 450 sf of GFA
Office or service uses with limited customer traffic	1.0 per 600 sf of GFA
Office or service uses with no regular customer traffic	1.0 per 900 sf of GFA
<b>Industrial</b>	
Manufacturing or storage uses with no customer traffic	1.0 per 1,500 sf of GFA
Research or development, data processing or similar office-like uses	1.0 per 900 sf of GFA
Wholesale trade, self-storage or industrial uses with customer traffic	1.0 per 600 sf of GFA
<b>Public Assembly</b>	
Facilities for mass assembly	1.0 per 6 seats or 1.0 per 60 sf of assembly area if no seats
Sites used for active outdoor recreation, <5 acres in size	1.0 per 12,000 sf of lot area
Sites used for passive outdoor recreation, <5 acres in size	1.0 per 24,000 sf of lot area
Sites used for outdoor recreation, 5 acres or more in size	1.0 per acre of lot area up to a maximum of 20 spaces
Public places with high visitor turnover	1.0 per 450 sf of GFA
Public places with regular visitor traffic	1.0 per 600 sf of GFA
Public places with limited visitor traffic	1.0 per 1,200 sf of GFA

**Notes.** When calculation of minimum parking requirements based on these ratios results in a fractional number, the number of spaces must be rounded up to the nearest whole number.

If a proposed use is not listed, the Zoning Administrator will set a ratio based on the listed use most similar to the proposed use.

DU = Dwelling Unit. GFA = Gross Floor Area.

High turnover uses are characterized primarily by primarily drop-in customers or visitors staying for a short period of time (ex. convenience store, coffee shop, or fast-food restaurant).

Uses with regular traffic are characterized by primarily scheduled customers or visitors staying for moderate period of time (ex. sit-down restaurant, theater, hair salon, or medical office).

Uses with limited traffic are characterized by customers or visitors arriving infrequently and primarily by appointment (ex. attorney or accountant).

Figure 3-02. **Shared Parking Percentages**

Land Use	Weekday		Weekend		Nighttime (12 AM – 6 AM)
	Daytime (9 AM – 4 PM)	Evening (6 PM – 11 PM)	Daytime (9 AM – 4 PM)	Evening (6 PM – 11 PM)	
Office or Industrial	100%	10%	10%	5%	5%
Retail	60%	70%	100%	70%	5%
Lodging	70%	100%	70%	100%	70%
Dining	50%	100%	70%	100%	5%
Other Commercial	40%	100%	80%	100%	5%
Residential	50%	90%	80%	90%	100%

**Notes.** If a proposed use is not listed, the Zoning Administrator will set the percentages.

**Section 3203. Bicycle and Pedestrian Access**

**3203.A Bicycle Access and Storage.** Bicycle access and storage will be required for applications requiring major site plan approval in accordance with the following:

- (1) Lodging, commercial and public assembly uses within the DB1, NC1, NC2, M1, M2, M3, M4-C, M4-R, M5, M6 and R1 districts with 10 or more off-street parking spaces must provide bicycle parking. The number of bicycle parking spaces must be at least 5% of the number of off-street vehicle parking spaces associated with the use.
- (2) Any required bicycle parking:
  - (a) Must be designed to support a bicycle upright by its frame in two places (rather than supporting the bike by the wheel), and to enable the frame and one or both wheels to be secured. Post and loop, inverted “U” and “A” type bicycle racks are recommended; wave, toast and comb type racks are not recommended.
  - (b) Must be located not more than 200 feet from a building entrance, and preferably not more than 50 feet.
  - (c) Should be under a roof or otherwise protected from the weather whenever feasible.
- (3) The Development Review Board may require sites with high traffic volumes (ex. shopping plazas) to incorporate designated bicycle lanes or multi-use paths that provide safe and convenient routes between the road and the bicycle parking area(s) on the site.
- (4) Bicycle lanes adjacent to vehicular travel lanes must be at least 5 feet wide. Separated bicycle or multi-use paths must be at least 8 feet wide.

**3203.B Pedestrian Access.** All land development requiring major site plan approval must provide safe and convenient pedestrian access in accordance with the following:

- (1) **Public Sidewalks.** If a lot fronts on a public road and a sidewalk exists or is planned along either side of that road within ¼ mile of the subject property, the applicant must provide a sidewalk along the property frontage unless otherwise recommended by the Department of Public Works or VTrans, as applicable, as follows:
  - (a) Curb ramps and crosswalks must be provided where roads bisect public sidewalks.
  - (b) Continuous sidewalk must be provided across driveways where driveways intersect public sidewalks.
  - (c) Public sidewalks and crosswalks must be constructed in accordance with the town’s Public Works Specifications or VTrans’ design specifications if within a state right-of-way.
  - (d) If public sidewalks will not be constructed within the road right-of-way, the applicant must provide the town with a maintenance easement.
- (2) **Internal Walkways.** Internal pedestrian walkways must be provided as follows:
  - (a) Walkways must connect pedestrians to public sidewalks, transit stops, crosswalks, building entrances, bicycle and vehicle parking areas, adjacent development, and community spaces on or adjoining the site.

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- (b) Walkways must be at least 5 feet wide.
  - (c) Walkways must be hard-surfaced and meet all applicable requirements of the Americans with Disabilities (ADA) standards.
  - (d) Walkways must be separated or distinguished from driving and parking surfaces by a landscaped buffer, change in elevation, change in surface material and/or crosswalk or surface markings.
- (3) **Parking Areas.** On sites with 20 or more off-street parking spaces, walkways must be provided along the length of the building featuring a public entrance and along any facade facing public parking areas. Designated walkways must be provided within parking lots with more than 60 spaces that separate pedestrian and vehicular traffic.

### Section 3204. Landscaping and Screening

3204.A **Purpose.** The provisions of this section are intended to protect quality of life and community character by:

- (1) Enhancing the appearance of the built environment as viewed from public vantage points;
- (2) Creating shade along sidewalks and walkways, and within parking lots;
- (3) Providing a landscaped buffer between residential and nonresidential land uses; and
- (4) Screening land uses and development that create visual clutter and distraction.

3204.B **Landscape Plans.** Applications for major site plan review must include a landscape plan prepared by a licensed landscape architect, certified horticulturalist or certified arborist.

3204.C **Plant Materials.** Plant materials must meet the planting specifications in Figure 3-03. Use of native plant materials is strongly encouraged. Use of invasive plant materials is prohibited (for a current list contact the Invasive Plant Coordinator at the Vermont Department of Forests, Parks and Recreation). Applicants are strongly encouraged to retain existing mature vegetation on development sites to meet landscaping and screening requirements.

Figure 3-03. Planting Specifications

Plant Material	Minimum Caliper	Minimum Height	Minimum Planting Area	Mature or Maintained Height
Large Tree	2 inches for single-trunk trees (measured at 6 in above grade)	6 ft for multi-trunk trees	100 sf	≥50 ft
Medium Tree			24 sf	30 to <50 ft
Small Tree			16 sf	<30 ft
Large Shrub	–	2 ft	12 sf	≥6 ft
Medium Shrub	–	1 ft	8 sf	3 to <6 ft
Small Shrub	–	1 ft	6 sf	<3 ft

3204.D **Maintenance.** Landscaping required under this section or as a condition of approval must be maintained in a healthy condition. Dead or dying plants must be replaced within 1 growing season with a comparable plant (in terms of type, form, size at maturity, etc.) of at least the minimum size requirements specified in Figure 3-03.

3204.E **Street Trees.** Applications requiring major site plan approval within the DB1, NC1, NC2, M1, M2, M3, M4-C, M4-R, M5, M6 and R1 districts are required to provide street trees along existing and new roads in accordance with the following:

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- (1) Street trees must be planted within 5 feet of the edge of the road right-of-way unless otherwise recommended by the Department of Public Works or VTrans, as applicable.
- (2) If a planting area at least 5 feet wide within or immediately adjacent to the road right-of-way does not exist, or is not feasible to establish as determined by the Department of Public Works or VTrans, as applicable, the Development Review Board may waive the street tree requirement.
- (3) Street trees must be:
  - (a) Large trees where there are no existing or proposed overhead utility lines.
  - (b) Medium trees where there are existing or proposed overhead utility lines 35 feet or more in height.
  - (c) Small trees where there are existing or proposed overhead utility lines less than 35 feet in height.
- (4) The Development Review Board may waive the requirement for large street trees and allow the applicant to plant medium or small trees to accommodate sites with existing structures or similar obstructions that could conflict with large trees as they mature.
- (5) Street trees must generally be planted with even, linear spacing. Large trees must be planted at a minimum ratio of one for every 50 feet of frontage. Medium or small trees must be planted at a minimum ratio of one for every 30 feet of frontage. The spacing may be shifted to accommodate site features or maintain sight distance.
- (6) Preservation of existing trees to meet this requirement is strongly encouraged. The Development Review Board may waive the location, spacing and alignment to allow existing trees within 10 feet of the edge of the road right-of-way to meet street tree requirements.

### **3204.F Site Landscaping.** Sites must be landscaped in accordance with the following:

- (1) A minimum of 1 shrub is required for each 5 feet and 1 tree is required for each 30 feet of exterior principal building perimeter.
- (2) Landscaping should be used or installed to:
  - (a) Provide direction to and enhance building entrances;
  - (b) Enhance and shade walkways;
  - (c) Provide visual breaks along blank building facades; and/or
  - (d) Intercept and filter stormwater runoff (ex. rain garden).
- (3) Plant materials should be planted in groupings and should be distributed around the areas of the site visible from public vantage points.

### **3204.G Parking Lot Landscaping.** Surface parking lots (excluding sales lots or truck and freight transportation) with more than 15 spaces must be landscaped with medium and/or large trees to create a tree canopy that will provide shade for a minimum of 40% of the parking lot in accordance with the following:

- (1) Each large tree will be considered to provide 1,200 square feet of shade.
- (2) Each medium tree will be considered to provide 600 square feet of shade.

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- (3) Trees must be planted within islands or planting areas that are at least 9 feet wide by 18 feet deep.
- (4) Incorporating parking lot landscaping into the site's stormwater management system is strongly encouraged.
- (5) Rear parking lots that will be screened from view at the road by the principal building may reduce the percentage of landscaping required under this subsection from 40% to 25%.

3204.H **Screening.** The site plan must include landscaped buffers, berms, fences, walls, screens, camouflage or similar mechanisms to minimize impacts of proposed development on adjacent properties and public views in accordance with the following:

- (1) **Intent.** The purpose of screening is to minimize the visibility and impacts of incompatible, disruptive or visually unappealing aspects of proposed development on the surrounding neighborhood. This is not to be interpreted to mean that all views of the area or element to be screened must be fully blocked, rather screening should be used to soften and break up views and to create visual interest elsewhere on the site so that the area or element to be screened no longer dominates the view.
- (2) **Side and Rear Yards.** The Development Review Board may require an applicant to retain or establish a landscaped buffer and/or fencing along side or rear lot lines when a more intensive use is proposed to locate adjacent to a less intensive use.
- (3) **Parking Lots.** Parking lots must be screened from view from the road, sidewalk and surrounding residences.
- (4) **Utilities.** All utility boxes, pump stations, substations, and similar aboveground utilities must be screened from view from the road, sidewalk and surrounding residences.
- (5) **Service Areas.** Off-street loading areas, refuse and outdoor storage areas, mechanical equipment and similar utilitarian site features areas must be screened.
- (6) **Building-Mounted Equipment.** Mechanical equipment and utilities mounted on building walls or roofs must be designed and located to minimize their visibility from the road, sidewalk and surrounding residences in accordance with the following:
  - (a) Wall-mounted equipment or utilities must be painted or otherwise colored to match building materials to the maximum extent feasible.
  - (b) Rooftop equipment or utilities must be enclosed or screen by building walls or parapets that will be compatible with the form, design and materials of the building.
- (7) **Fences and Walls.** Fences or walls used as a buffer or screen must conform to the following:
  - (a) Between a height of 1 and 5 feet above the ground, the fence or wall must be opaque.
  - (b) Use of corrugated, plywood, metal, or galvanized steel sheets is prohibited in all districts.

- (8) **Landscaped Buffers.** Vegetative buffers that feature a mix of evergreen and deciduous plant materials arranged in informally shaped and spaced groupings are strongly encouraged. Existing mature vegetation should be retained to provide buffers between adjoining properties to the maximum extent feasible.

**Section 3205. Outdoor Lighting**

- 3205.A **Purpose.** Outdoor lighting will be regulated to reduce its obtrusive and disruptive aspects, and will be limited to the minimum necessary for safety, security and nighttime use of property. It is the intent of this section to curtail degradation of the nighttime environment and reduce light trespass, glare and energy use by encouraging lighting designs that direct appropriate amounts of light where and when it is needed, increasing the use of energy-efficient light sources, and discouraging the use of poorly shielded or directed light fixtures.
- 3205.B **Applicability.** Applicants must design and use all outdoor lighting in accordance with the provisions of this section except for:
- (1) Public street lights.
  - (2) Decorative holiday lighting using low-wattage lamps.
  - (3) Outdoor lighting located on single- or two-family residential property.
  - (4) Outdoor lighting required for farming or forestry practices.
- 3205.C **Lighting Plan.** Applicants for major site plan approval must submit a lighting plan prepared by a professional lighting engineer or designer if outdoor lighting will be altered or installed.
- 3205.D **Previously Developed Sites.** An applicant seeking site plan approval must bring all outdoor lighting on the premises, including any previously installed and proposed new outdoor lighting, into conformance with this section.
- 3205.E **Lighting Classes and Zones.** This section regulates outdoor lighting based on the following classes and zones:
- (1) **Class 1 Lighting** includes all outdoor lighting used for outdoor dining or food service areas, outdoor assembly or maintenance facilities where regularly scheduled work activities occur after dark, assembly areas like amphitheaters, recreational facilities, signs or similar applications where color rendition is essential to the illuminated activity or purpose of the lighting.
  - (2) **Class 2 Lighting** includes all outdoor lighting used for illumination of walkways, roadways, equipment yards, parking lots, outdoor security or similar applications where general illumination for visibility, safety or security of the grounds is the primary concern.
  - (3) **Class 3 Lighting** includes all outdoor lighting used for decorative effects such as architectural illumination, flag and monument lighting, landscape lighting and similar applications.
  - (4) **Lighting Zone 1** encompasses all districts not listed in Paragraph (5) below.
  - (5) **Lighting Zone 2** encompasses the DB1, NC1, NC2, M1, M2, M3, M4-C, M4-R, M5, M6 and R1 districts.



Figure 3-04. Light Fixture Shielding, Lamp Type and Time Limits

	ZONE 1	ZONE 2
<b>CLASS 1 LIGHTING</b>		
Initial output <2,000 lumens	Fully shielded	Partially shielded
Initial output 2,000 lumens or more	Fully shielded	Fully shielded
<b>CLASS 2 LIGHTING</b>		
Initial output <2,000 lumens	Fully shielded	Partially shielded
Initial output 2,000 lumens or more	Fully shielded	Fully shielded
<b>CLASS 3 LIGHTING</b>		
Initial output <2,000 lumens	Partially shielded	Partially shielded
Initial output 2,000 lumens or more	Prohibited	Prohibited

Figure 3-05. Total Outdoor Light Outputs

	ZONE 1	ZONE 2
<b>Commercial, Industrial or Mixed Use</b>		
All light fixtures (fully + partially shielded)	50,000 lumens/acre	100,000 lumens/acre
Partially shielded light fixtures only	5,000 lumens/acre	10,000 lumens/acre
<b>Multi-Family Residential</b>		
All light fixtures (fully + partially shielded)	10,000 lumens/dwelling	10,000 lumens/dwelling
Partially shielded light fixtures only	3,000 lumens/dwelling	3,000 lumens/dwelling

3205.F **General Standards.** Applicants must design outdoor lighting to be the minimum required for safety, security, and intended use in accordance with the following:

- (1) **Shielding.** All nonexempt outdoor light fixtures must be shielded as specified in Figure 3-04. The applicant must install and maintain all fixtures that are required to be fully shielded in such a manner that the shielding is effective.
- (2) **Total Output.** Total output from all nonexempt outdoor light fixtures on a site must not exceed the limits specified in Figure 3-05.
- (3) **Uniformity.** Outdoor lighting must be designed to provide a uniform distribution of light in areas regularly traversed by vehicles or pedestrians. Lower light levels with more uniformity provide safer and more efficient lighting than higher light levels with less uniformity. Lighting plans that produce a ratio of 3:1 or less between the highest light level and lowest light level within a trafficked area on the site are strongly encouraged and ratios in excess of 10:1 are prohibited.
- (4) **Spot Light Aiming.** Light fixtures containing spot or flood lamps must be aimed no higher than 45° above straight down. When aimed straight down, such light fixtures will be considered fully shielded; when aimed above straight down, they will be considered partially shielded. Use of flood or similar high-intensity lighting is discouraged.
- (5) **Freestanding Lights.** Freestanding light fixtures must not exceed 25 feet in height. Freestanding light fixtures may be located within setbacks. Use of decorative fixtures not more than 12 feet in height is encouraged to light walkways and other pedestrian-oriented spaces.

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- (6) **Light Trespass.** Any outdoor light fixture containing a lamp with an initial output of more than 10,000 lumens that will be located within 50 feet of a property line or a public right-of-way must be oriented and shielded to prevent light trespass over the adjacent property or right-of-way.
- (7) **Internally Illuminated Architecture.** The initial lamp output of any architectural element (ex. wall, fascia or canopy edge) that is internally illuminated and that is not part of a sign will be considered partially shielded, Class 3 lighting.
- (8) **Luminous Tube Lighting.** Luminous tube lighting does not require shielding but it will be considered partially shielded lighting for the purposes of calculating total outdoor light output for the site.
- (9) **Time Limits.** The Development Review Board may limit when outdoor lighting may be used as deemed necessary to achieve the purposes of this section and protect the character of the area. Use of timers, dimmers and sensors is encouraged.

3205.G **Sign Lighting.** All sign lighting must conform to the following:

- (1) **Externally Illuminated Signs.** External illumination for signs will not count towards the site's total outdoor lighting output. All upward directed sign lighting is prohibited.
- (2) **Internally Illuminated Signs.** Internally illuminated signs will not count towards the site's total outdoor lighting output provided that the sign is constructed with either:
  - (a) An opaque background and translucent text and symbols; or
  - (b) A colored background that is darker than the text and symbols.
- (3) **High Intensity Lights.** The use of laser source lights, searchlights or other high intensity lights for advertising purposes is prohibited.
- (4) **Total Output.** Illumination for signs will not count towards the site's total outdoor lighting output provided that the sign is not illuminated after 9 p.m. within Lighting Zone 1 and 10 p.m. within Lighting Zone 2, or the close of business if later.
- (5) **Time Limits.** The Development Review Board may further limit when signs may be illuminated as deemed necessary to achieve the purposes of this section and protect the character of the area.

3205.H **Special Use Lighting.** There are special standards for the following uses:

- (1) **Recreation Facilities.** Lighting for outdoor recreation facilities will be considered Class 1 Lighting and will be exempt from the lumens per acre limit specified in Figure 3-05. The facility lighting must be designed to achieve no greater than the minimal levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA). Light fixtures must be fully-shielded or use internal and/or external louvers or shields to minimize off-site glare and light trespass. Light fixtures must be installed and maintained with aiming angles that permit no greater than 5% of the light emitted by each fixture to project above the horizontal. All field lighting must be extinguished within 30 minutes of the cessation of play.

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- (2) **Sales Lots.** Lighting for the display area of a sales lot will be considered Class 1 Lighting. All display area lighting must use properly installed and maintained fully-shielded light fixtures. The total outdoor light output for the display area will be exempt from the lumens per acre limit specified in Figure 3-05, but must not exceed 60 lumens per square foot. Any display area lighting that exceeds the lumens per acre limit specified in Figure 3-05 must be turned off after 9 p.m. within Lighting Zone 1 and 10 p.m. within Lighting Zone 2, or 30 minutes after the close of business if later. Lighting for the display area remaining on after the time limit will be considered Class 2 Lighting and must conform to the applicable standards of this section.
- (3) **Fueling Station Canopies.** Lighting for fueling station canopies will be considered Class 1 Lighting. All light fixtures mounted on or recessed into the lower surface of fueling station canopies must be fully shielded and use flat lenses. The total light output used for illuminating fueling station canopies must not exceed 60 lumens per square foot of canopy. The total light output used for illuminating fueling station canopies will be counted towards the site's lumens per acre limit as specified in Figure 3-05.

### **Section 3206. Signs**

3206.A For all signs requiring its approval, the Development Review Board shall consider the aesthetic impact of the proposed signs, including the:

- (1) Location;
- (2) Size and shape of the sign;
- (3) The compatibility of the sign with the other signs on the same building or within the same complex;
- (4) The harmony of the color and design of the proposed sign with neighboring signs and buildings; and
- (5) The compatibility of the sign with natural aesthetic features.

### **Section 3207. Outdoor Use Areas**

3207.A **Applicability.** The standards of this section apply to outdoor seating and service, and keeping any goods, material or merchandise in an unroofed area for more than 24 hours.

3207.B **Outdoor Seating and Service.** Outdoor seating and service areas for patrons must conform to the following:

- (1) The site plan must show the location and boundaries of the outdoor seating and service area.
- (2) Outdoor seating and service areas must be located outside required setbacks unless otherwise approved by the Development Review Board in accordance with any applicable town ordinances or Public Works Specifications or waived for streetfront outdoor seating in the DB1, NC1, and NC2 zoning districts.
- (3) Outdoor seating and service areas must not be placed or located where they will interfere with pedestrian or vehicular access and circulation, building entrances, vehicular parking, loading areas, emergency access or egress, utilities or other service areas.

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- (4) Outdoor seating must be placed on a firm, level surface.
- (5) The Development Review Board may place limits on the hours outdoor seating and service areas may be used and the level of noise that may be generated as necessary to protect the character of the area.

3207.C **Outdoor Display.** Outdoor display of retail goods, wares and merchandise must conform to the following:

- (1) The site plan must show the location and boundaries of the outdoor display area.
- (2) Outdoor display areas must be located outside required setbacks unless otherwise approved by the Development Review Board in accordance with any applicable town ordinances or Public Works Specifications or waived for street front outdoor display in the DB1, NC1 and NC2 zoning districts.
- (3) Merchandise must not be placed or located where it will interfere with pedestrian or vehicular access and circulation, building entrances, vehicular parking, loading areas, emergency access or egress, utilities or other service areas.
- (4) Merchandise must be placed on a firm, level surface.

3207.D **Outdoor Storage.** The keeping of any materials, goods, equipment, vehicles, or other items not for sale in an unroofed area for more than 24 hours must conform to the following:

- (1) The site plan must show the location and boundaries of the outdoor storage area.
- (2) Outdoor storage areas must not be located within required setbacks.
- (3) Except within the industrial districts, outdoor storage areas must not be located between the principal building and the street unless otherwise approved by the Development Review Board upon its determination that the storage area cannot reasonably be located elsewhere on the site and will not detract from the character of the area.
- (4) Outdoor storage areas must be fenced in and screened from view from the road, sidewalk and surrounding residences.
- (5) Vehicle storage is limited to licensed vehicles registered to the business, unless otherwise approved as a specific use allowing outdoor vehicle storage.

### **Section 3208. Performance Standards**

3208.A **Purpose.** The provisions of this chapter are intended to protect the character of the area and quality of life by preventing proposed development from creating or contributing to adverse off-site impacts.

3208.B **Noise.** Noise emanating off-site must be muffled, must not be distinct from the background sound level beyond the property line, and must not interfere with the reasonable use and enjoyment of property. The Development Review Board may place specific limits on noise levels and hours of operation as deemed necessary to protect the character of the area.

3208.C **Glare.** Lighting must not be used in such a manner that it produces glare on streets or nearby property. Arc welding, acetylene torch cutting or similar processes must be performed so as not be visible from any point beyond the property line.

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- 3208.D **Odors.** Emission of odors that are readily detectable without special instruments at any point beyond the property line and that interfere with the reasonable use and enjoyment of property is prohibited.
- 3208.E **Vibration.** Vibration that is easily discernible without special instruments at any point beyond the property line is prohibited. This will not apply to vibration caused by motor vehicle, train or aircraft traffic or during construction. The Development Review Board may approve greater vibration levels for a specified period, frequency and purpose as appropriate to the proposed development and location.
- 3208.F **Electrical or Radio Interference.** No use or process must create interference with electrical or radio apparatus beyond the property line.
- 3208.G **Waste Storage.** Storage of wastes that attract insects or rodents, or otherwise create a health hazard is prohibited. Applicants must show the location of waste storage facilities (including, but not limited to dumpsters) on the site plan and must screen such facilities in accordance with Section 3204.
- 3208.H **Particulate Matter and Airborne Solids.** Generation of dust, dirt, fly ash or other airborne solids that accumulate at any point beyond the property line is prohibited except when related to approved construction or extraction activities. Generation of smoke or particulate matter beyond the property line that interferes with the reasonable use and enjoyment of property is prohibited.
- 3208.I **Flammable, Toxic or Hazardous Substances and Wastes.** Flammable, combustible or explosive materials must be stored and handled in conformance with state and federal regulations. Such materials must be securely stored within an enclosed building or tank. Toxic or hazardous substances or wastes must not be released into the environment so as to cause contamination of any potable water supply, sanitary sewer or septic system, watercourse or water body, soil or air except as specifically permitted by the Vermont Agency of Natural Resources.

### **Section 3209. Special Provisions Applicable to Major Projects in Specified Town Core Districts**

- 3209.A **Applicability.** Applicants must demonstrate that proposed land development requiring major site approval in the Downtown Business (DB1), Checkerberry Neighborhood Center (NC1), Historic Neighborhood Center (NC2), Milton Crossroads Marketplace Center (M1), Milton Crossroads Marketplace West (M2), Milton Crossroads Marketplace Municipal/Recreation (M3), Checkerberry Commercial (M4-C), Checkerberry Residential (M4-R), Old Towne Residential/Commercial (M5), and Main Street (M6) districts conforms to the standards of this section.
- 3209.B **Purpose.** Applicants must locate and design development to:
- (1) Enhance the visual appearance of the street and neighborhood in which they are located.
  - (2) Enhance the streetscape and pedestrian connections.
  - (3) Improve access management, accommodate multi-modal transportation options, and foster development of a secondary road network.

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- (4) Exhibit consistent design integrity in all components including, but not limited to, roof forms, windows and entrances (proportion and placement), building materials, facade details, signage, lighting, fencing and landscaping.
- (5) Not contribute to a pattern of linear strip development.
  - (a) .

3209.C **Service Areas.** Applicants must locate and design service areas to:

- (1) **General**
  - (a) Ensure that service areas do not detract from the overall quality of public, common and residential outdoor use areas.
  - (b) Ensure that pedestrian connections are not disrupted by service or loading areas.
  - (c) Minimize the impact (noise, light, odors, etc.) of service areas on building residents.
- (2) **Ancillary Facilities.** Locate ancillary facilities (such as heat pumps, trash receptacles and utility meters) into the building and not along the street facing facade, to the maximum extent feasible. If ancillary facilities cannot be incorporated into the building, the applicant must locate them underground, on rooftops or at the rear of the site and screen the features from view off site in a manner that is compatible with the architecture of the principal building.
- (3) **Refuse.** Provide on-site facilities for collection and storage of trash, recyclable materials and compostable materials within buildings or enclosed, centralized dumpsters or containers as follows:
  - (a) Locate refuse collection and storage areas to prevent odors, noise and other adverse impacts from residential and public areas.
  - (b) Provide sealed containers for storing all refuse
  - (c) Secure refuse collection and storage areas within a gated enclosure at least 6 feet high placed on an adequately drained, paved surface.
  - (d) Build refuse enclosures with durable materials, such as stone, concrete block, steel, and heavy timber, that will be compatible with the design and materials of the principal building.
  - (e) Keep the enclosure's gate closed and latched except when someone is depositing or collecting refuse.
- (4) **Utilities**
  - (a) Locate utilities underground to the maximum extent feasible given site-specific conditions.
  - (b) Locate electrical panels to minimize their visibility from the street, in locations such as side yard walls, and/or behind landscaped areas, and integrate them into the design of the buildings to the maximum extent feasible.
  - (c) Minimize the visibility of utility connections from public and residential areas.
- (5) **Loading Areas.** Minimize the visibility of loading areas from public and residential areas by screening them with screen walls, landscaping, and other devices.

**3209.D Landscaping and Screening.** Applicants must:

**(1) General**

- (a) Submit a landscape plan prepared by a licensed landscape architect or certified horticulturalist or arborist.
- (b) Provide landscaping to manage stormwater, support passive heating and cooling, improve air quality, provide an attractive view from public and residential areas, provide privacy for dwelling units, promote quality of life, enhance streetscapes, and beautify neighborhoods.
- (c) Provide landscaping along streets, within front yards, between commercial and residential buildings, in areas that will be visible from the primary living areas of dwelling units, within common open space areas, along the edge of driveways, along the perimeter of the site, between buildings and driveways, and between buildings and parking.

**(2) Plant Materials**

- (a) Select non-invasive plant materials that meet the planting specifications in Figure 3-03 (refer to the Vermont Agency of Agriculture Noxious Weed List and the Vermont Invasive Exotic Plant Committee's watch list for more information about invasive plants.).
- (b) Retain existing, mature and healthy vegetation on development sites to the maximum extent feasible, which applicants may use to meet landscaping and screening requirements.
- (c) Use native plant materials to the maximum extent feasible.

**(3) Maintenance**

- (a) Maintain required landscaping in a healthy condition.
- (b) Replace any dead or dying plants with a comparable plant (in terms of type, form, size at maturity, etc.) of at least the minimum size requirements specified in Figure 3-03 no later than the end of the next growing season.

**(4) Stormwater**

- (a) Design landscaped areas to serve as stormwater management areas as well as visual amenities.
- (b) Integrate stormwater management facilities into the site landscaping. Green stormwater infrastructure practices are encouraged (refer to the Vermont League of Cities and Towns' Green Stormwater Infrastructure Toolbox for guidance on selecting and sizing GSI practices for small projects).

**(5) Parking**

- (a) Surface parking areas with asphalt, concrete, commercial-grade stone pavers.
- (b) Landscape parking areas, driveways, and other vehicle use areas in order to screen and improve their visual appearance from dwelling units, common areas and adjacent properties.
- (c) Incorporate trees, landscape islands, shrubs, ornamental plants and groundcover throughout parking areas.

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- (d) Shade paved surfaces to the maximum extent feasible in order to reduce heat gain and other environmental effects.
- (e) Design parking areas so that the area occupied by planting islands and strips is not less than 10% of the area occupied by parking spaces and access aisles (this will not include the area of any access drive).
- (f) Provide at least two shrubs and one tree for every 10 parking spaces within parking areas.
- (g) Design planting islands and strips to measure at least 160 square feet in area and not less than 8 feet in any dimension, excluding any area subject to vehicle overhang.
- (6) **Fences and Walls.** Applicants must:
  - (a) Design fences and walls to be an attractive site element, with materials and designs that are compatible with the exterior materials of the principal building.
  - (b) Locate fences or walls on the site to define private open space and common open space areas, protect privacy, and buffer residents from noise.

### **3209.E Vehicular Circulation.** Applicants must:

- (1) Ensure a safe and convenient pedestrian environment and an attractive street frontage to accommodate pedestrian and bicycle activities.
- (2) Minimize the number of curb cuts, in order to minimize conflicts with pedestrians and reduce congestion.
- (3) Design vehicular circulation to allow through movement between adjacent properties to the maximum extent feasible and place covenants on deeds to ensure continued shared use.
- (4) Provide access from side and rear streets, rather than from major arterials to the maximum extent feasible.

### **3209.F Pedestrian, Bicycle and Transit Facilities.** Applicants must:

- (1) **General**
  - (a) Ensure the provision of adequate facilities for pedestrians, bicycles and transit to promote and facilitate alternative modes of transportation and improve circulation.
- (2) **Public Right-of-Way Improvements**
  - (a) Provide new or repaired improvements in the public right-of-way along the lot frontage, including sidewalks, and street trees.
  - (b) The Development Review Board may require curbs and gutters to improve access management and control.
  - (c) Provide street trees along the street frontage that enhance the visual appearance of the street and provide shade for pedestrians by planting one tree for each 50 feet of lot frontage. The Development Review Board may allow applicants to count existing trees located within 10 feet of the road right-of-way towards the street tree requirement. The Development Review Board may waive or modify the street tree requirement if the applicant can demonstrate that providing an adequate



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planting area at least 5 feet wide within or adjacent to the street right-of-way is not feasible due to site-specific conditions.

- (d) Locate street trees within 5 feet of the sidewalk (refer to the *Town of Milton Urban Forest Strategic Action Plan*). Street trees should be located in a tree belt between the sidewalk and street when there is adequate space and there will not be conflicts with signs, utilities or similar elements.
  - (e) Plant a diversity of tree species and avoid planting more than 3 street trees of the same species in a row.
  - (f) Refer to the *Vermont Tree Selection Guide* and online tree selection tool available from the Vermont Urban and Community Forestry Program for guidance on choosing appropriate street tree species.
- (3) **Pedestrian Sidewalks and Walkways**
- (a) Locate buildings to be contiguous wherever possible, and make accommodations for pedestrian circulation between adjacent businesses and sites.
  - (b) Where new parking areas are to be located adjacent to existing parking areas on an adjoining site or sites, provide pedestrian walkways that connect the two areas.
  - (c) Provide sidewalks from building entrances to the public sidewalk network. The Development Review Board may allow walkways where such a connection crosses a parking lot. Walkways must be separated or distinguished from driving and parking surfaces by a landscaped buffer, change in elevation, change in surface material and/or crosswalk or surface markings.
  - (d) Provide sidewalks within residential projects that connect the unit entrances to the unit's driveway or to the public sidewalk network.
- (4) **Bicycle Parking and Storage**
- (a) Provide short-term bike parking in parking areas and other locations near lodging, commercial and public assembly entrances. Locating bicycle parking where it will be covered, illuminated and protected from the elements is strongly encouraged.
  - (b) Provide at least one bicycle rack on each site and additional racks as necessary to provide 1 bicycle parking space for each 20 nonresidential vehicle parking spaces.
- (5) **Transit Shelters**
- (a) Provide a transit and/or school bus shelter that enhances the streetscape and that offers adequate protection from the elements when appropriate for high-traffic uses or sites as required by the Development Review Board and in coordination with Green Mountain Transit, the school district, or other public transportation providers as applicable.

3209.G **Parking.** Applicants must:

- (1) Locate parking primarily to the side or rear of buildings, or within or below buildings.
- (2) Disperse surface parking throughout the project in smaller segmented parking areas of not more than 40 spaces rather than creating large, uninterrupted land intensive surface parking lots.

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- (3) Screen parking areas from view from the street and sidewalk, and from public and residential areas with a combination of landscaping fencing, walls, and/or grade change.
- (4) Separate parking areas from buildings by at least a walkway or a landscaped area, preferably both, so that parking spaces will not directly abut buildings.

3209.H **Previously Developed Sites.** The Development Review Board must find that the applicant is proposing a “best fix” that conforms with the provisions of this section to the maximum extent feasible given the physical characteristics of the lot and the existing development on it. If the applicant is not proposing to come into full conformance with streetscaping (including sidewalks and connecting pedestrian walkways) and landscaping requirements, he/she must demonstrate to the Development Review Board why it is not physically feasible to make the required improvements.

## Chapter 330. Conditional Use Standards

### Section 3301. Applicability

3301.A All land development established as a conditional use in these regulations must conform to the standards of this chapter.

### Section 3302. Capacity of Community Facilities and Utilities

3302.A The applicant must demonstrate that the proposed development will not cause a disproportionate or unreasonable burden on the town's ability to provide community facilities and utilities including:

- (1) Local schools.
- (2) Police, fire protection and ambulance services.
- (3) Road infrastructure and maintenance.
- (4) Parks and recreation facilities.
- (5) Water supply, sewage disposal and stormwater systems and infrastructure.

### Section 3303. Traffic

3303.A **Standards.** The applicant must demonstrate that:

- (1) The volume, type and timing of traffic generated by the proposed development will not be substantially greater than what would normally occur at nearby uses or at other uses permitted in the area.
- (2) The traffic generated by the proposed development will not unreasonably and disproportionately contribute to a reduced level of service for affected roads and intersections, and for all modes of travel.
- (3) Reasonable measures have been taken to minimize and/or mitigate the amount of vehicular traffic generated by the proposed development.

3303.B **Traffic Impact Study.** A traffic impact study prepared by a qualified professional in accordance with VTrans' traffic impact study policy must be included in any application for proposed development that is expected to generate 75 or more new trips during the a.m. or p.m. peak hour. The Development Review Board may require the applicant to provide a traffic impact study if recommended by the Department of Public Works.

3303.C **Mitigation Measures.** The Development Review Board may require the applicant to mitigate transportation impacts as a condition of approval, including paying for all or a portion of off-site improvements deemed necessary to accommodate anticipated traffic resulting from the proposed development.

### Section 3304. Character of the Area

3304.A Character of the area is the established sum of the elements and qualities that distinguish one area of town from another. The applicant must demonstrate that the proposed development will be compatible with the character of the area in accordance with the standards below:

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- (1) **Compatibility.** New development must:
  - (a) Not substantially impair or diminish the use, value and enjoyment of other property in the area as they are currently used and/or developed.
  - (b) Not impair or impede the lawful future use and/or development of property within the area for the uses allowed under these regulations.
  - (c) Be architecturally compatible with other buildings in the area that exemplify the applicable zoning district's purpose as well as the applicable dimensional and development standards of these regulations through relationships of scale, massing, siting, detail and materials.
  - (d) Not adversely impact the stated policies and standards of the municipal plan.
- (2) **Yards, Lot Coverage and Landscaping.** New development must maintain a sense of open space that is appropriate to the area. The balance of building area to open space must exemplify the applicable zoning district's purpose as well as the applicable dimensional and development standards of these regulations and the structure must be sized and located on the site to maintain the pattern of greenspace existing in the area.
- (3) **Lighting and Noise.** New development must not generate a substantially greater amount of outdoor lighting or noise than other uses already established in the area or than what would be typical of the uses permitted in the area. The increment of increased noise and lighting must not be disproportionate and the applicant must take reasonable efforts to minimize the impact on the surrounding area.

### **Section 3305. Natural Resource Protection**

3305.A The applicant must demonstrate that proposed development will be designed and located to avoid, minimize and/or mitigate adverse impacts to significant natural resources as identified in the Vermont Agency of Natural Resource's Natural Resource Atlas including, but not limited to:

- (1) Surface waters, floodplains, wetlands and their buffers.
- (2) Steep slopes (25% slope or greater).
- (3) Primary agricultural soils and productive forest soils.
- (4) Wildlife habitat.
- (5) Endangered species.

### **Section 3306. Energy Conservation**

3306.A The applicant must demonstrate that:

- (1) Any proposed development subject to the Vermont Residential Building Energy Standards or Commercial Building Energy Standards will meet the applicable stretch code for residential or commercial buildings and must document the building's energy performance by submitting an energy certificate upon the completion of construction in accordance with Section 4207.
- (2) The proposed development has been designed to facilitate use of energy-efficient modes of transportation such as walking, biking and transit and electric vehicles as feasible and appropriate given the location and use.

**Section 3307. Conditions of Approval**

- 3307.A The Development Review Board may place conditions on any approval as deemed necessary to further the purposes of these regulations and ensure conformance with all applicable provisions of these regulations.
- 3307.B The Development Review Board may require the applicant to mitigate any impacts of proposed development as a condition of approval through measures that may include, but are not limited to:
- (1) Paying for all or a portion of off-site improvements to community facilities and utilities deemed necessary to accommodate the proposed development.
  - (2) Phasing proposed development so that the rate of growth will not exceed the town's ability to provide community facilities and utilities.
  - (3) Paying for all or a portion of off-site transportation improvements deemed necessary to accommodate anticipated traffic resulting from the proposed development.
  - (4) Setting aside land for recreation purposes such as playgrounds, parks, trails and/or multi-use paths.
  - (5) Setting aside land for conservation purposes and protecting it from future development.

## **Chapter 340. Subdivision Standards**

### **Section 3401. Applicability**

3401.A All subdivision of land must conform to the standards of this chapter

### **Section 3402. Capacity of Community Facilities and Utilities**

3402.A The applicant must demonstrate that the proposed development will not cause a disproportionate or unreasonable burden on the town's ability to provide community facilities and utilities including:

- (1) Local schools.
- (2) Police, fire protection and ambulance services.
- (3) Road infrastructure and maintenance.
- (4) Parks and recreation facilities.
- (5) Water supply, sewage disposal and stormwater systems and infrastructure.

### **Section 3403. Suitability of the Land**

3403.A The applicant must demonstrate that the land to be subdivided is suitable for use without endangering public health or safety, and adversely impacting the environment, neighboring properties or the character of the area.

3403.B Land subject to periodic flooding, poor drainage, inadequate capability to support development or other hazardous conditions must not be subdivided unless the applicant can demonstrate that appropriate measures will be taken to overcome the physical limitations.

### **Section 3404. Design and Configuration of Parcel Boundaries**

3404.A **Lot Arrangement.** The applicant must design the subdivision:

- (1) To follow and extend the planned settlement pattern (including lot size, lot configuration, road layout and structure location) as defined by the purpose and standards of the applicable zoning district to the maximum extent feasible given the site's topography and natural features.
- (2) To connect to and extend existing road, sidewalk, path, trail, utility, greenway, and open space corridors to the maximum extent feasible given the site's topography and natural features.
- (3) So that there will be no foreseeable difficulties in obtaining zoning permits to build on all lots not intended for conservation purposes in accordance with the standards of these regulations.
- (4) So that there will be no foreseeable difficulties in providing access to structures on lots not intended for conservation purposes from an existing or planned road.

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- (5) To avoid direct access from arterial streets or state highways. The Development Review Board may require shared access or other means to minimize new curb cuts along arterial streets or state highways.
- (6) To allow further subdivision on any remaining undivided land, lots with further subdivision potential and/or adjoining undeveloped lots in a manner that would result in a logical and coordinated development pattern.
- (7) So that there will be positive drainage away from building sites and a coordinated stormwater drainage pattern for the subdivision that does not concentrate stormwater drainage from each lot to adjacent lots.

**3404.B Lot Dimensions.** The applicant must design the subdivision:

- (1) So that all lots front on a road.
- (2) So that lot dimensions meet the minimum standards for the zoning district.
- (3) So that generally side lot lines are at right angles to straight roads or radial to curved roads with recognition that some variability may be desirable to respond to the site's topography and natural features.
- (4) So that generally rear lot lines are parallel to front lot lines with recognition that some variability may be desirable to respond to the site's topography and natural features.
- (5) To avoid flag and other irregularly shaped lots except when desirable to respond to the site's topography and natural features.
- (6) To minimize the number of lots with frontage on more than one road.
- (7) To minimize the number of lots with a rear lot line that abuts the side lot line of an adjacent lot.

### **Section 3405. Design and Layout of Necessary Improvements**

**3405.A Roads.** Applicants must design and construct all new or extended roads within a subdivision or development in accordance with this subsection.

- (1) **Public Works Specifications.** Applicants must construct new or extended roads in accordance with the Town of Milton's Public Works Specification. In the case of a conflict between a provision of these regulations and a provision of the Town of Milton's Public Works Specifications, the Public Works Specifications will govern.
- (2) **Technical Review.** The Zoning Administrator will forward all applications for new or extended roads to the Department of Public Works for review and comment prior to the hearing. The Development Review Board or Zoning Administrator may condition or deny any approval or permit based on those comments.
- (3) **Engineering Requirements.** A Vermont licensed professional engineer must certify that all new or extended roads were designed and constructed in accordance with the Town of Milton Public Works Specifications, these regulations and any conditions of approval.
- (4) **General Standards.** Applicants must design and construct all new or extended roads within a subdivision or development to:
  - (a) Safely accommodate all users (including vehicular, bicycle and pedestrian traffic).
  - (b) Provide adequate access and suitable turnarounds, when applicable, for

emergency and service vehicles.

- (c) Provide efficient access to property and avoid congestion on existing streets.
  - (d) Logically extend and improve the connectivity of the town's existing street network.
  - (e) Fit into the landscape and follow the natural terrain to the greatest extent feasible.
  - (f) Not be excessively wide in order to calm traffic and minimize impervious surface.
- (5) **Topography and Arrangement.** New or extended roads must be:
- (a) Designed to relate appropriately to the pre-existing topography and provide adequate drainage.
  - (b) Graded and laid out to conform as closely as possible to the pre-existing topography.
  - (c) Integrated into the town's existing street network to the maximum extent feasible.
  - (d) Extended to the boundary lines of the parcel(s) being subdivided or developed to facilitate the coordinated subdivision or development of adjacent undeveloped land unless prevented by topography or other physical conditions.
  - (e) Designed to minimize the amount of impervious surface necessary to provide convenient and safe access to property.
  - (f) Designed to minimize the number of stream crossings.
- (6) **Connectivity.** Discontinuous road systems are inefficient and cause undue congestion, while a well-connected road system disperses traffic efficiently and improves walkability. Accordingly, cul-de-sac or dead-end roads are prohibited except that the Development Review Board may approve cul-de-sacs or dead-end roads not exceeding 1,000 feet in length if one of the following applies:
- (a) As stubs to permit future expansion. The Development Review Board may require construction of road stubs or condition approval on a future agreement to extend roads when adjacent property is subdivided or developed.
  - (b) Where topography or other physical conditions make construction of through roads impractical or undesirable.
  - (c) To serve not more than 6 lots or dwelling units.
- (7) **Access Management.** Applicants must implement proper access management techniques that follow VTrans' Access Management Program Guidelines in the design of new or extended roads.
- (8) **Access Points.** A subdivision or development with more than 30 lots or 50 dwelling units must have at least two access points from public roads. The Development Review Board may waive or modify this requirement as recommended by the Department of Public Works for sites with physical conditions that make provision of a second access impractical or undesirable. The Development Review Board may allow the secondary access to be limited to emergency access. The Development Review Board may require a secondary or emergency access for smaller subdivisions or developments when deemed necessary to protect public safety.
- (9) **Design Standards and Construction Specifications.** Applicants must:



## **Town of Milton Unified Development Regulations • Part 3. Development Standards**

- (a) Design new or extended roads to the *VTrans A-76 Standards for Town and Development Roads* except as otherwise specified in these regulations; and
  - (b) Construct new or extended roads in accordance with the Town of Milton Public Works Specifications.
- (10) **Design Speed.** Applicants must design new or extended roads for a speed of 30 miles per hour or less.
- (11) **Width.** Applicants must design new or extended roads in accordance with the following unless otherwise approved by the Development Review Board to respond to site-specific physical conditions or anticipated traffic flows:
  - (a) For roads with a traffic volume of not more than 60 trips per day on average (equivalent to 6 dwelling units), lane widths must be at least 8 feet and not more than 9 feet.
  - (b) For roads with a traffic volume in excess of 60 trips per day on average, lane widths must be at least 9 feet and not more than 10 feet with 2-foot shoulders on both sides.
- (12) **Intersections.** New or extended roads must be:
  - (a) Laid out to intersect as close to 90 degrees as physically possible. They must not intersect at less than 75 degrees or more than 105 degrees.
  - (b) Designed with directly opposed intersections whenever feasible. If not directly opposed, the centerline offset of road intersections must be at least 150 feet.
  - (c) Designed with an intersection approach that does not exceed a 3% average grade for a distance of 20 feet as measured from the edge of the right-of-way of the intersecting road.
  - (d) Designed with a curb radius at the intersection that does not exceed 30 feet as measured from the edge of the traveled way. The Development Review Board may allow a larger curb radius to respond to site-specific physical conditions or uses with heavy truck traffic.
- (13) **Drainage.** New or extended roads must be designed:
  - (a) With drainage facilities to divert run-off to vegetated areas wherever possible.
  - (b) To maintain or establish a buffer of natural woody vegetation between roads and surface waters at least 25 feet wide. The Development Review Board may waive or modify the buffer requirement to respond to site-specific physical conditions such as an unavoidable stream crossing.
  - (c) Not to block the flow of drainage in existing ditches, swales or gutters.
  - (d) Not to unreasonably contribute to an accumulation of stormwater that would exceed the capacity of downstream facilities or infrastructure.
  - (e) With culverts that are sized to convey anticipated peaks stormwater flows and that are installed to minimize erosion damage at the inlet and outlet as determined by the Department of Public Works.

## **Town of Milton Unified Development Regulations • Part 3. Development Standards**

- (14) **Grade.** New or extended roads must generally conform to the topography and must not exceed a maximum grade of 10% as measured over any 100-foot section. The Development Review Board may allow segments less than 100 linear feet in length to exceed the maximum grade to respond to the site's topography and natural features when recommended by the Department of Public Works. Any new or extended road that exceeds an average grade of 7% must be paved with asphalt, or equivalent material (not to include gravel) if recommended by the Department of Public Works.
- (15) **Cross-Slope.** All new or extended roads must have a cross-slope of at least 1% and not more than 3%.
- (16) **Street Names and Signs.** The applicant must name new or extended roads and install street signs in accordance with state and town requirements.
- 3405.B **Streetlights.** The Development Review Board may require street lighting be added to the design of the subdivision or development in accordance with section 3205 and the Town of Milton Public Works Specifications.
- 3405.C **Pedestrian and Bicycle Facilities.** The applicant must integrate pedestrian and bicycle access into the design of the subdivision or development in accordance with the following:
  - (1) **Sidewalks and Pathways.** Within the DB1, NC1, NC2, M1, M2, M3, M4-C, M4-R, M5, M6 and R1 districts, applicants must install sidewalks along both sides of roads. Applicants must install sidewalks within all major subdivisions along one side of new or extended roads. The Development Review Board may require sidewalks or multi-use paths outside the Town Core when deemed appropriate. The Development Review Board may allow a sidewalk to be constructed on only one side of a road if the density of the subdivision or development will be less than 4 dwelling units per acre. Sidewalks must be at least 5 feet wide and constructed of concrete or a similar material with equivalent durability in accordance with Town of Milton Public Works Specifications.
  - (2) **Paths.** Applicants must install pedestrian and/or multi-use paths as necessary to provide access within the subdivision or development to common lands or facilities, parking areas or similar amenities, as well as between buildings.
- 3405.D **Street Trees.** Within the DB1, NC1, NC2, M1, M2, M3, M4-C, M4-R, M5, M6 and R1 districts street trees may be required in accordance with Subsection 3204.E.
- 3405.E **Water and Wastewater Facilities.** The applicant must design the subdivision or development to provide potable water and wastewater facilities in accordance with the following:
  - (1) Any subdivision or development within the town's water service area must be connected to the municipal system. The applicant must provide water service to each lot not intended for conservation purposes in accordance with the Town of Milton Public Works Specifications.
  - (2) Any subdivision or development within the town's sewer service area must be connected to the municipal system. The applicant must provide sewer service to each lot not intended for conservation purposes in accordance with the Town of Milton Public Works Specifications.
  - (3) Any subdivision or development not within the town's water or sewer service areas must demonstrate compliance with the state's wastewater system and potable water supply rules.

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- 3405.F **Firefighting Facilities.** The applicant must design the subdivision or development to provide water for fire protection in accordance with the following:
- (1) Within any subdivision or development that will be connected to the town's water system, the applicant must install fire hydrants in accordance with the Town of Milton Public Works Specifications.
  - (2) Within any subdivision or development that will not be connected to the town's water system, the Development Review Board may require the applicant to install a fire pond or make other appropriate provisions to facilitate firefighting.
- 3405.G **Public and Private Utilities.** The applicant must design the subdivision or development to provide utility service to each lot not intended for conservation purposes in accordance with the following:
- (1) All utilities must be located underground unless prevented by ledge or other physical conditions that make burying lines impractical.
  - (2) Utilities must be located within road rights-of-way to the maximum extent feasible. The applicant must provide the town with a maintenance and access easement for any utilities not located within a road right-of-way.
- 3405.H **Erosion Control.** The applicant must design and undertake construction within the subdivision or development in accordance with the standards of Section 3009.
- 3405.I **Stormwater Management.** The applicant must design the subdivision or development with adequate drainage and stormwater infrastructure in accordance with Section 3010 and the Town of Milton Public Works Specifications.
- 3405.J **Parks and Recreation Areas.** The applicant must design the subdivision with appropriate areas and facilities for active and passive outdoor recreation in accordance with the following:
- (1) All subdivisions or developments with more than 12 lots or dwelling units must provide a minimum of 400 square feet per dwelling unit or  $\frac{1}{4}$  acre of common recreation areas or facilities, whichever is greater, except:
    - (a) No common recreation areas or facilities will be required for single-family residential subdivisions with a density of one dwelling unit or fewer per acre.
    - (b) The Development Review Board may waive or modify the requirement for common recreation areas or facilities for subdivisions located within  $\frac{1}{4}$  mile walk of a public park.
  - (2) Land set aside for recreation areas or facilities must be suitable for active or passive outdoor recreation.
  - (3) Each lot within the subdivision must have convenient access to the common recreation areas or facilities.
- 3405.K **Monuments and Lot Corner Markers.** The applicant must install:
- (1) Permanent right-of-way monuments at all road intersections and other critical points in road lines in accordance with state statute.
    - (a) No zoning permit for lot development may be certified without monuments present.

## **Town of Milton Unified Development Regulations • Part 3. Development Standards**

- (2) Lot corner markers at corners and angle points of all lots in accordance with state statute.

3405.L **Construction and Maintenance of Necessary Improvements.** The applicant must:

- (1) Construct the necessary improvements in accordance with all conditions of approval and Town of Milton Public Works Specifications before the Zoning Administrator may issue any zoning permits for further land development within the subdivision or development.
- (2) Maintain necessary improvements while lots or units within the subdivision or development are being sold and/or developed in accordance with all conditions of approval.
- (3) Demonstrate how the necessary improvements required under this section will be maintained once lots or units have been sold and/or developed.
- (4) Establish an owners' association or similar legally enforceable mechanism to ensure continuing maintenance of private roads, shared infrastructure, or other common land or facilities within the subdivision or development. The Development Review Board may require the applicant to provide drafts of covenants, articles of incorporation, bylaws, maintenance agreements or other legal documents for review prior to final approval of the subdivision and to record such documents with the town along with the final plat.

### **Section 3406. Character of the Area and Settlement Pattern**

3406.A The applicant must demonstrate that the proposed subdivision will:

- (1) Be compatible with and enhance the character of the area.
- (2) Not contribute to a pattern of strip development.
- (3) Not impair or impede the lawful development of property within the area for the uses permitted in the applicable zoning district.

### **Section 3407. Renewable Energy and Energy Conservation**

3407.A The applicant must demonstrate that the proposed subdivision:

- (1) Has been designed to facilitate use of energy-efficient modes of transportation such as walking, biking and transit as feasible and appropriate given the location and use.

### **Section 3408. Natural Resource Protection**

3408.A The applicant must demonstrate that proposed subdivision will be designed and located to avoid, minimize and/or mitigate adverse impacts to significant natural resources as identified in the Vermont Agency of Natural Resource's Natural Resource Atlas including, but not limited to:

- (1) Surface waters, floodplains, wetlands and their buffers.
- (2) Steep slopes (15% slope or greater).
- (3) Primary agricultural soils and productive forest soils.

- (4) Necessary wildlife habitat and endangered species.

**Section 3409. Soil Preservation**

3409.A The applicant must:

- (1) Stockpile any topsoil removed during the course of construction on-site.
- (2) Redistribute stockpiled topsoil to provide even cover on all disturbed areas to be seeded or planted.
- (3) Make reasonable efforts to repair any soil compaction prior to seeding or planting such as tilling, subsoiling, plug aeration and/or organic amendments.
- (4) Not remove any sand, gravel or other earth resources from the site for any purpose other than the minimum necessary and authorized to meet the construction needs of the subdivision.

## Chapter 350. Planned Unit Development Standards

### Section 3501. Conservation Subdivision

- 3501.A **Purpose.** The purpose of this section is to provide flexibility in site design for residential subdivisions in order to preserve natural resources, open space and rural character.
- 3501.B **Applicability.** Conservation subdivisions are permitted in all zoning districts where single family dwellings are a permitted use, except within the following Town Core Zoning Districts: Downtown Business (DB1), Checkerberry Neighborhood Center (NC1), Historic Neighborhood Center (NC2), Milton Crossroads Marketplace Center (M1), Milton Crossroads Marketplace West (M2), Milton Crossroads Marketplace Municipal/Recreation (M3), Checkerberry Commercial (M4-C), Checkerberry Residential (M4-R), Old Towne Residential/Commercial (M5), Main Street (M6), Old Towne Residential (R1), and Beaverbrook Residential (R7). Conservation subdivisions are required for all major subdivisions in the Agricultural/Rural Residential (R5) zoning district, and all subdivisions, minor and major, containing land in the Forestry/Conservation (FC) and Flood Hazard (FH) zoning districts.
- 3501.C **Density.** The density of a conservation subdivision must not exceed the maximum density as determined based on the applicable zoning district standards (total area to be subdivided divided by the residential density).
- 3501.D **Dimensional Standards.** The following will apply within a conservation subdivision:
- (1) The dimensional standards for lots, setbacks, yards and structures in the base zoning district will not apply within a conservation subdivision. The subdivision must meet all applicable dimensional standards around its perimeter.
  - (2) Lot coverage for the subdivision as a whole must not exceed the district maximum.
  - (3) Development within the subdivision must conform to the buffer standards in Section 3011.
- 3501.E **Use.** Nonresidential principal uses are prohibited within a conservation subdivision except for community buildings and agricultural enterprises. Single family dwellings and duplex residential buildings will be permitted within a conservation subdivision; no other forms of residential buildings will be permitted.
- 3501.F **Conservation Areas.** A minimum of 60% of the total area of the conservation subdivision must be set aside as conservation areas in accordance with the following:
- (1) The area must be contiguous, unless waived by the Development Review Board due to site conditions.
  - (2) The following will be considered primary conservation resources and must be included in the conservation area:
    - (a) Wetlands;
    - (b) Mapped flood hazard and river corridor areas;
    - (c) Severely steep slopes (grade 30% or greater);

### **Town of Milton Unified Development Regulations • Part 3. Development Standards**

- (3) The following will be considered secondary conservation resources and must be included in the conservation area to the maximum extent feasible:
  - (a) Primary and statewide agricultural soils;
  - (b) Riparian and wetland buffers (see Section 3011);
  - (c) Moderately steep slopes (15% to <30%);
  - (d) Forestry/Conservation zoning district areas; and
  - (e) Woodlands that are part of a contiguous forest block at least 50 acres in size; and
  - (f) Scenic views into the property from public vantage points.
- (4) Conservation areas must abut existing conservation areas, parks, open space or farmland on adjacent lots to the maximum extent feasible.
- (5) Conservation areas must be designated as permanent open space, not to be further subdivided, and protected through a conservation easement held by the state and/or a land trust or conservancy. The conservation easement must prohibit further development in the conservation areas and may establish other standards to safeguard or maintain the conservation resources.
- (6) Conservation areas must not be cleared, graded, filled or subject to construction except:
  - (a) The Development Review Board may allow roads and above ground utilities to cross conservation areas when reasonable access cannot otherwise be provided to the portions of the site to be developed. Disturbance of the conservation area must be the minimum necessary to provide adequate access.
  - (b) Underground utilities, including absorption areas for shared septic systems, may be located within conservation areas provided that the Development Review Board finds that such development will not adversely impact the conservation resources intended to be protected by inclusion in a conservation area.
  - (c) Community gardens, trails and passive recreation amenities may be developed within conservation areas in accordance with the approved plan.
  - (d) Required agricultural practices and construction of farm structures may be allowed within conservation areas intended for agricultural use in accordance with the terms of the easement.

**3501.G Development Areas.** A maximum of 40% of the total area of the conservation subdivision may be developed for residential use in accordance with the following:

- (1) The development must be designed as one or more clusters composed of 2 to 12 lots or dwelling units separated by open space.
- (2) At least 40% of the lots or dwelling units must abut a conservation area.
- (3) All lots or dwelling units not directly abutting a conservation area must have direct pedestrian access to the conservation area(s) from a continuous system of sidewalks, paths or trails. The Development Review Board may waive the access requirement for conservation areas intended for agricultural use.
- (4) Access to each cluster within the conservation subdivision must be from a single curb cut unless otherwise approved by the Development Review Board to provide adequate emergency access or to minimize disturbance of conservation resources.

## Town of Milton Unified Development Regulations • Part 3. Development Standards

- (5) All reasonable measures must be taken to minimize the amount of impervious surface associated with vehicular access and parking (such as shared driveways, narrow lanes, and locating development near existing roads).
- 3501.H **Community Buildings.** A conservation subdivision may include one or more community buildings that would serve residents by providing amenities such as multi-purpose recreation or entertainment, food preparation and dining, library, daycare, guest quarters or storage. The subdivision residents must commonly own any community building.
- 3501.I **Application Requirements.** In addition to all other applicable requirements, the applicant must submit:
  - (1) An existing site conditions map of the subject property showing the location of all primary and secondary conservation resources and delineating the boundary of the proposed conservation areas over an aerial photo base map; and
  - (2) A context map of the subject property and surrounding land within 1,500 feet of the property boundary showing the location of all primary and secondary conservation resources and any public or conserved lands over an aerial photo base map.

### Section 3502. Cottage Cluster

- 3502.A **Purpose.** The purpose of this section is to address the need for smaller and more affordable housing choices in response to changing household demographics and living preferences. The intent is to encourage development of pocket neighborhoods composed of cottages sited around common open space that are pedestrian-oriented and minimize the footprint and visibility of auto-oriented features like parking and garages.
- 3502.B **Applicability.** Cottage cluster developments are permitted in all of the following zoning districts where single-family dwellings are a permitted use: Milton Crossroads Marketplace Center (M1), Milton Crossroads Marketplace West (M2), Milton Crossroads Marketplace Municipal/Recreation (M3), Checkerberry Residential (M4-R), Old Towne Residential/Commercial (M5), Main Street (M6), Old Towne Residential (R1), and Beaverbrook Residential (R7).
- 3502.C **Density.** The maximum density for a cottage cluster development will be 150% of the residential density allowed in the base zoning district.
- 3502.D **Dimensional Standards.** The following will apply within a cottage cluster development:
  - (1) The dimensional standards for lots, setbacks, yards and structures in the base zoning district will not apply within a cottage cluster development. The development must meet all applicable dimensional standards around its perimeter.
  - (2) The lot coverage for the development as a whole must not exceed the base zoning district.
  - (3) Development within the subdivision must conform to the buffer standards in Section 3011.
- 3502.E **Use.** Nonresidential principal uses are prohibited within a cottage cluster development.



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- 3502.F **Cluster Size.** The development must be designed as one or more clusters composed of 3 to 12 cottages arranged around a common open space.
- 3502.G **Cottage Design.** A cottage as allowed under this section must be a single- or two-family detached dwelling that:
- (1) Is not more than 1½ stories high. All portions of the building more than 18 feet above ground must be within the roof pitch.
  - (2) Has a footprint of not more than 1,200 square feet if single-family or 1,600 square feet if two-family. Attached garages will be included in the footprint calculation.
  - (3) Has a pitched roof with a minimum slope of 6:12. Secondary roofs (porches, sheds, dormers, etc.) may have a lower slope.
  - (4) Has a roofed, open porch at least 80 square feet in size with a minimum dimension of 8 feet on any side.
  - (5) Has at least 300 square feet of private, contiguous, usable yard area abutting the building with no dimension less than 10 feet.
- 3502.H **Common Open Space.** The development must include one or more common open spaces in accordance with the following:
- (1) A minimum of 400 square feet of common open space suitable for community gardens and/or passive outdoor recreation is required per cottage.
  - (2) Each cottage must have a principal entryway that faces a common open space and that is not separated from the open space by a road or driveway. Garage doors must not face the common open space.
  - (3) A minimum of 40% of the cottages must directly abut a common open space and each cottage must be connected to a common open space by a walkway not more than 60 feet long.
  - (4) A common open space must have cottages abutting on at least two sides.
  - (5) The common open space must be landscaped and must not be used for parking, utility, trash collection or other service functions. Green stormwater and renewable energy infrastructure may be located within common open space provided that such functions do not unreasonably interfere with recreational use and aesthetic enjoyment of the common open space.
- 3502.I **Accessory Buildings.** Private garages, carports, sheds or similar accessory structures must have a footprint of not more than 360 square feet and a height of not more than 18 feet. A private, detached carriage house that includes an accessory dwelling unit may have a footprint of not more than 60% of the associated cottage and a height of not more than 25 feet. Shared or common accessory buildings must have a footprint of not more than 1,200 square feet and a height of not more than 25 feet.

## **Town of Milton Unified Development Regulations • Part 3. Development Standards**

- 3502.J **Community Buildings.** The development may include one or more community buildings that are clearly incidental to the cottages and that would serve residents by providing non-commercial amenities such as multi-purpose recreation or entertainment, food preparation and dining, library, or storage. A community building must be commonly-owned by the residents. A community building must be compatible in scale, design and height to the cottages.
- 3502.K **Vehicular Access and Parking.** The development must provide vehicular access and parking in accordance with the following:
- (1) Vehicular access and on-site parking will not be required to/on each lot or cottage within the PUD. The development may provide one or more common off-street parking areas within the PUD or structures with pedestrian walkways connecting the parking and the cottages.
  - (2) Vehicular access and parking must not be located within the front yard or the common open space, or between the cottages and the common open space.
  - (3) Vehicular access and parking should be located primarily around the periphery of the development or each cottage cluster and should be designed to have minimal visibility from the common open space and from public vantage points beyond the development. Shared driveways should be used to the maximum extent feasible.
  - (4) Unless otherwise approved by the Development Review Board, vehicular access and parking must meet all applicable site design, engineering, setback, buffering and landscaping requirements of these regulations.

## **PART 4. ADMINISTRATIVE PROCEDURES**

### **Chapter 400. Roles and Responsibilities**

#### **Section 4001. Zoning Administrator**

- 4001.A In accordance with 24 V.S.A. §4448 and the Town of Milton Charter, the Planning Commission will nominate and the Selectboard will appoint a Zoning Administrator in accordance with state statute. The Selectboard may appoint an Acting or Assistant Zoning Administrator to act under the supervision of the Zoning Administrator in the Zoning Administrator's absence, or if the Zoning Administrator has a conflict of interest. The Acting or Assistant Zoning Administrator will fulfill the duties and responsibilities of the Zoning Administrator in the event of an absence of 5 or more consecutive business days.
- 4001.B The Zoning Administrator will:
- (1) Assist applicants in determining whether and which town permits and/or approvals will be needed for a project;
  - (2) Provide applicants with application forms;
  - (3) Inspect projects during construction as necessary;
  - (4) Maintain records;
  - (5) Respond to complaints and violations; and
  - (6) Perform all other tasks necessary to administer these regulations.
- 4001.C The Zoning Administrator must enforce the provisions of these regulations strictly and may only issue zoning permits for land development that conforms to these regulations.
- 4001.D The Zoning Administrator will refer applications to the Development Review Board as required under these regulations.

#### **Section 4002. Planning Commission**

- 4002.A In accordance with 24 V.S.A. §4321-8 and the Town of Milton Charter, the Selectboard appoints members to the Planning Commission in accordance with the town charter and state statute.
- 4002.B The Planning Commission does not perform any development review functions under these regulations, but may make recommendations on planning and land development issues in the Town of Milton generally.
- 4002.C The Planning Commission may prepare amendments to these regulations and make recommendations to the Selectboard on the amendment of these regulations.

#### **Section 4003. Development Review Board**

- 4003.A In accordance with 24 V.S.A §4460 and the Town of Milton Charter, the Selectboard appoints members to the Development Review Board in accordance with the town charter and state statute.

- 4003.B The Development Review Board performs development review functions as specified in these regulations and in accordance with their adopted rules of procedure.

## **Chapter 410. Fees and Filing Requirements**

### **Section 4101. Permit Fees**

- 4101.A In accordance with 24 V.S.A. §4440, the Selectboard will establish, by resolution, fees for the Zoning Administrator or other town employees to charge for administering these regulations. These fees may include the cost of posting and publishing notices, holding public hearings, recording documents, and conducting periodic inspections during construction.
- 4101.B An applicant must pay the applicable fee(s) when submitting an application. The Zoning Administrator must not deem an application complete until the applicable fee(s) are paid in full.

### **Section 4102. Impact Fees**

- 4102.A In accordance with 24 V.S.A. Chapter 131, the Town of Milton may require applicants to pay impact fees in accordance with any duly adopted impact fee ordinance.

### **Section 4103. Technical or Legal Review Costs**

- 4103.A In accordance with 24 V.S.A. §4440, the Zoning Administrator or Development Review Board may hire qualified professionals to provide an independent technical and/or legal review of an application when deemed necessary to ensure compliance with these regulations or other duly adopted town ordinance or standards governing land development, the cost of which will be paid by the applicant.

### **Section 4104. Performance Bonds and Sureties**

- 4104.A The Zoning Administrator or Development Review Board may require an applicant to provide a performance bond or similar surety as a condition of approval to ensure the completion of required improvements.
- 4104.B The applicant will provide a quote prepared by a qualified professional for the full project cost. The Zoning Administrator or Development Review Board will base the amount of any bond or surety on that quote.
- 4104.C The Town of Milton will only release the bond or surety after certification by the applicant and determination by the Zoning Administrator that the required improvements have been satisfactorily completed.

### **Section 4105. Cost of Monitoring or Inspection**

- 4105.A In accordance with 24 V.S.A. §4440, the Zoning Administrator or Development Review Board may condition approval upon monitoring and inspection during construction or once the use has commenced when deemed necessary to ensure compliance with these regulations, the cost of which will be paid in full by the applicant prior to the Zoning Administrator issuing a final certificate of compliance.

## **Town of Milton Unified Development Regulations • Part 4. Administrative Procedures**

### **Section 4106. As-Built Drawings**

- 4106.A The Zoning Administrator or Development Review Board may require an applicant to file as-built drawings as a condition of approval.
- 4106.B The Town of Milton will require as-built drawings for any infrastructure to be built within public rights-of-way or to be turned over to the town.
- 4106.C The Zoning Administrator may require an applicant to file as-built drawings when approved plans are amended under Section 4204 or when minor adjustments to approved plans are necessary to respond to unforeseen conditions that arise during construction.

### **Section 4107. Other Permits, Approvals and Certifications**

- 4107.A In accordance with 24 V.S.A §4414(13)(A)(ii) and 4449(a)(2), the Zoning Administrator or Development Review Board may condition approval upon the applicant filing other permits, approvals or certifications required by the Town of Milton or other regulatory entities.

## **Chapter 420. Zoning Permit Procedures**

### **Section 4201. Submitting a Zoning Permit Application**

- 4201.A **Zoning Administrator.** In accordance with 24 V.S.A. §4448(C), the Zoning Administrator will assist prospective applicants by:
- (1) Determining whether a project will require a zoning permit, and any associated development approvals, under these regulations;
  - (2) Providing applicants with the necessary form(s) to apply for the applicable permit(s) and approval(s).
  - (3) Notifying applicants of the fees or other charges that the town may charge in relation to the application or proposed development.
  - (4) Informing applicants that state permits may be required and providing contact information for the regional permit specialist in accordance with 24 V.S.A. §4448(e).
  - (5) Providing applicants copies of the state energy standards for residential or commercial buildings as applicable.
- 4201.B **Applicant.** The applicant must submit all required forms, supporting materials and fees to the Zoning Administrator to apply for a zoning permit, and any associated development approval, under these regulations.
- 4201.C **Application Requirements.** In accordance with 24 V.S.A. 4464(c), the Zoning Administrator:
- (1) May waive an application requirement upon finding the information is not necessary to determine compliance with these regulations.
  - (2) May require an applicant to provide additional information as necessary to determine compliance with these regulations.
  - (3) Must keep written documentation of any application requirement waived or additional material requested as part of his/her office records.
- 4201.D **Determination of Completeness.** The Zoning Administrator must:

## **Town of Milton Unified Development Regulations • Part 4. Administrative Procedures**

- (1) Determine whether an application is complete promptly after the applicant submits it.
- (2) Inform the applicant of his/her determination. If the application is incomplete, the Zoning Administrator must inform the applicant in writing of what additional information is required.

4201.E **Appeal of Administrative Actions.** In accordance with 24 V.S.A. §4465, the applicant or other interested person may appeal any of the Zoning Administrator's actions or decisions under this section to the Development Review Board as specified in Section 4601.

### **Section 4202. Acting on a Complete Application**

4202.A **Time to Act.** In accordance with 24 V.S.A. §4448(d), once the Zoning Administrator determines that an application for a zoning permit is complete, he/she must act within 30 days to approve, deny or refer it to the Development Review Board except that the time period within which the Zoning Administrator must act will not commence for a zoning permit application that requires:

- (1) One or more development approvals under these regulations until the applicant has obtained all those necessary approvals for the proposed land development.
- (2) Notification of a state agency until the agency comments or the comment period elapses, whichever occurs first.

4202.B **Deemed Approval.** In accordance with 24 V.S.A. §4448(d), if the Zoning Administrator does not act on a complete application within 30 days, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the Zoning Administrator's failure to act within the 30-day period resulted in a "deemed approval" of the application.

4202.C **Decisions.** The Zoning Administrator must approve or deny applications in writing and specifically provide the following information:

- (1) When approving an application, the Zoning Administrator must inform the applicant (in accordance with 24 V.S.A. §4448(b)) that the applicant must:
  - (a) Post a notice of the zoning permit (to be provided by the Zoning Administrator) in a visible location on the subject property throughout the 15-day appeal period;
  - (b) Not commence the land development until the appeal period has ended;
  - (c) Continue to post the notice of the zoning permit while construction is occurring on the property; and
  - (d) Remove the notice of the zoning permit upon receipt of a final certificate of compliance or the expiration of the zoning permit, whichever comes first.
- (2) When denying an application, the Zoning Administrator must:
  - (a) Inform the applicant that the applicant may appeal the denial to the Development Review Board within 15 days of the date of the decision; and
  - (b) Include a copy of Section 4601, which explains the appeal process.

4202.D **Conditions of Approval.** The Zoning Administrator:

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- (1) May issue a zoning permit with conditions as necessary to ensure compliance with these regulations.
  - (2) Must inform applicants when issuing a zoning permit that state permits may be required and provide contact information for the regional permit specialist in accordance with 24 V.S.A §4448(e).
  - (3) Must condition any zoning permit for proposed land development that requires the construction, modification or replacement of a potable water supply or wastewater system, or that increases the design flow or modifies the operational requirements of a potable water supply or wastewater system on the applicant obtaining a municipal or state potable water and wastewater permit, as applicable, and providing the Zoning Administrator a copy of that permit prior to the start of construction in accordance with 24 V.S.A. §4414(13)(a).
  - (4) Must condition any zoning permit for proposed land development that is subject to the state's residential or commercial building energy standards on the applicant providing the Zoning Administrator with a copy of an energy certificate for the building when construction is completed in accordance with 24 V.S.A. §4449(a)(1).
- 4202.E **Posting of Permits.** In accordance with 24 V.S.A. §4448(b), the Zoning Administrator must post a copy of the zoning permit in at least one public place within 3 days after issuing it. The copy must remain posted throughout the 15-day appeal period..
- 4202.F **Filing of Permits.** In accordance with 24 V.S.A. §4448(b), the Zoning Administrator must:
- (1) Deliver an original, signed copy of the zoning permit or the notice of zoning permit to the Town Clerk for recording within 30 days after it becomes effective;
  - (2) File a copy of the permit as part of his/her office records; and
  - (3) Provide a copy of the permit to the Town Assessor.

### **Section 4203. Obtaining a Zoning Permit**

- 4203.A **Permit Takes Effect.** In accordance with 24 V.S.A. §4449(a)(3), a zoning permit takes effect concurrently with any associated development approvals on the 16<sup>th</sup> day after the Zoning Administrator issues it provided that no appeal is duly filed or that the applicant has not requested a delay. If an interested person files an appeal, the zoning permit and any associated development approvals will not take effect until the appeal is decided.
- 4203.B **Delay in Effect.** The applicant may request that a zoning permit and any associated development approvals not take effect until the applicant has obtained all permits and approvals necessary to commence the land development in accordance with the following:
- (1) The Zoning Administrator may delay the effective date of a permit and any associated development approvals for not more than 24 months due to demonstrated factors beyond the applicant's control (e.g., extended or contested Act 250 proceedings or litigation).
  - (2) It will be the applicant's responsibility to notify the Zoning Administrator in writing when the applicant is ready to commence the land development and request that the zoning permit and any associated development approvals take effect.

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4203.C **Permit Timeframe and Extension.** Zoning permits and any associated development approvals expire 2 years from the date the permit takes effect unless prior to the permit's expiration, the applicant:

- (1) Obtains a certificate of compliance in accordance with Section 4207; or
- (2) Requests and receives an extension of not more than 1 year from the Zoning Administrator. The Zoning Administrator may only grant one such extension upon the applicant demonstrating that:
  - (a) Any improvements completed to date conform to the conditions of the permit and any associated development approvals; and
  - (b) There have been no amendments to these regulations or change in external circumstances that would have caused a material change in the decision(s) on the original application(s).

4203.D **Transfer of Permit.** Zoning permits and any associated development approval remain in effect as specified in this section irrespective of any change in ownership of the subject property. All subsequent landowners, assigns or successors are subject to the requirements and conditions of any zoning permit and associated development approvals.

4203.E **Expired Permits.** If a zoning permit expires before the applicant substantially completes the construction or commences the use authorized by the permit, the applicant must apply for a new zoning permit and any other associated development approvals under these regulations.

### **Section 4204. Amending Permits or Approvals**

4204.A In accordance with 24 V.S.A. §4464(c), an applicant may submit a written request for the Zoning Administrator to amend a zoning permit, and any associated development approval, prior to the permit's expiration. The applicant must demonstrate that the proposed changes to the land development:

- (1) Are minor modifications that conform to all applicable provisions of these regulations, including the special flood hazard area provisions in Section 2201 if applicable;
- (2) Are neither material nor substantial changes that would have affected the decision on the original application;
- (3) Do not have the effect of substantively altering any of the findings of fact of the permit and any associated development approval; and
- (4) Do not change the type, character or intensity of the approved land development or use to a greater extent than specified below:
  - (a) Any proposed modification must not result in an increased requirement for parking or loading spaces.
  - (b) Any proposed increase in building footprint must not exceed 10% or 500 square feet, whichever is less.
  - (c) Any proposed substitution of plant materials must not change the overall landscape design concept.



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- 4204.B The scope of the review will be limited to those aspects of the land development affected by the proposed changes.
- 4204.C The Zoning Administrator may decline to amend a permit, and any associated development approval, and refer the request to the Development Review Board (see Section 4305).
- 4204.D The approval of an amendment will not affect the expiration date of the original permit and any associated development approvals.

### **Section 4205. Revoking Permits or Approvals**

- 4205.A In accordance with 24 V.S.A. §4455, the Zoning Administrator may petition the Environmental Division of Superior Court to revoke a zoning permit, and any associated development approvals, in accordance with state statute if an applicant omitted or misrepresented a material fact on an application or at a hearing that would have affected the decision on the original application.

### **Section 4206. Inspecting Land Development During Construction**

- 4206.A The Zoning Administrator may inspect any land development during construction as necessary to ensure compliance with these regulations and any permit or approval conditions.

### **Section 4207. Obtaining a Certificate of Compliance**

- 4207.A **When Required.** In accordance with 24 V.S.A. 4449(a)(2), an applicant must obtain a certificate of compliance from the Zoning Administrator before he/she occupies or commences the use of any land development.
- 4207.B **Application.** The Zoning Administrator will provide applicants with the necessary form to apply for a certificate of compliance.
- 4207.C **Time to Act.** The Zoning Administrator must act on a complete application for a certificate of compliance promptly and in all cases within 30 days. The Zoning Administrator may:
  - (1) Require the applicant to submit documentation from a qualified professional certifying that the land development as constructed conforms to the approved plans; and/or
  - (2) Inspect the subject property and consult with other town or state personnel as necessary to determine compliance
- 4207.D **Deemed Approval.** If the Zoning Administrator does not act on a complete application for a certificate of compliance within 30 days, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the Zoning Administrator's failure to act within the 30-day period resulted in a "deemed approval" of the application.
- 4207.E **Criteria.** Before receiving a final certificate of compliance, the applicant must demonstrate to the Zoning Administrator that:

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- (1) The land development is complete and conforms to the requirements of the zoning permit, and any associated development approvals, the filed plans, and the applicable provisions of these regulations;
  - (2) All commonly-owned or shared improvements (e.g., stormwater facilities or shared parking areas) are complete and conform to the requirements of the zoning permit, and any associated development approvals, the filed plans, and the applicable provisions of these regulations;
  - (3) All infrastructure connections are complete and conform to any applicable town specifications, the requirements of the zoning permit, and any associated development approvals, the filed plans, and the applicable provisions of these regulations;
  - (4) The applicant has filed all required documents with the town including, but not limited to, as-built drawings, floodplain elevation certificate, floodproofing certificate, energy certificate, wastewater and potable water supply permit, access permit, or stormwater permit; and
  - (5) The applicant has paid all required fees.
- 4207.F **Temporary Certificate.** The Zoning Administrator may issue a temporary certificate of compliance that conditions use or occupancy on full completion of all required improvements within not more than 180 days as follows:
- (1) The Zoning Administrator may require the applicant to submit a performance bond in accordance with Section 4104 to insure full completion of the outstanding work.
  - (2) The Zoning Administrator will require the applicant to submit a performance bond in accordance with Section 4104 if any commonly-owned or shared infrastructure or improvements remain incomplete.
  - (3) The applicant must apply for a final certificate of compliance prior to the expiration of the temporary certificate.
- 4207.G **Partial Certificate.** The Zoning Administrator may issue a partial certificate of compliance for multi-unit buildings, multi-building projects or other types of phased development as individual units, buildings or phases are completed and ready for use or occupancy as follows:
- (1) The Zoning Administrator may require the applicant to submit a performance bond in accordance with Section 4104 to insure full completion of the outstanding work.
  - (2) The Zoning Administrator will require the applicant to submit a performance bond in accordance with Section 4104 if any commonly-owned or shared infrastructure or improvements remain incomplete.
  - (3) The applicant must apply for a final certificate of compliance upon full completion of the project as permitted.
- 4207.H **Decisions.** The Zoning Administrator must approve or deny applications for a certificate of compliance in writing. When denying an application, the Zoning Administrator must:
- (1) State the reasons for the denial;
  - (2) Inform the applicant that he/she may appeal the denial to the Development Review Board within 15 days of the date of the decision; and

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- (3) Include a copy of Section 4601, which explains the appeal process.

4207.I **Denials.** If the Zoning Administrator denies an application for a certificate of compliance:

- (1) The Zoning Administrator must commence appropriate enforcement action under Chapter 470 if he/she finds a violation of these regulations.
- (2) The applicant may re-apply after remedying any conditions identified as the reason for the denial.

## Chapter 430. Site Plan and Conditional Use Review Procedures

### Section 4301. Pre-Application Conference

- 4301.A A prospective applicant may request a pre-application conference with the Zoning Administrator prior to submitting a complete application. A pre-application conference is an informal meeting that provides the prospective applicant with an opportunity to consult with and receive advice in order to save time and expense in the preparation of the application. Any comments or recommendations made are intended to provide general direction to the prospective applicant, but will not be deemed binding in the preparation or review of any subsequent application for development approval.

### Section 4302. Site Plan Review

- 4302.A **Applicability.** In accordance with 24 V.S.A. §4416, all land development requires site plan approval before the Zoning Administrator may issue a zoning permit except:

- (1) A single-family or two-family dwelling, or any accessory uses or structures associated with such a dwelling; or
- (2) A change of use within an existing multiple tenant commercial site provided that the proposed use is permitted in the zoning district and does not require any additional parking.

- 4302.B **Purpose.** The purpose of site plan review is to ensure that:

- (1) The physical aspects of proposed land development comply to all applicable provisions of these regulations and are consistent with the goals of the *Milton Comprehensive Plan*.
- (2) Proposed land development is of high quality and designed to be visually compatible with its setting through use of landscaping, screening, outdoor lighting, signage, building form and mass, and architectural details.
- (3) Proposed land development is appropriately sited, and is complimentary to and functionally integrated with surrounding development to the greatest extent feasible.
- (4) Roads, access, driveways, parking facilities, utilities and other infrastructure, both on-site and off-site, are adequate and available to support the proposed land development.
- (5) Proposed land development is energy efficient and avoids, mitigates and/or minimizes adverse environmental effects to the greatest extent feasible.

- 4302.C **Classification.** The Zoning Administrator will classify:

- (1) Major. A site plan application for proposed land development that includes any of the following is a major site plan:
  - (a) Commencement of a new conditional use.
  - (b) Change of use if the two uses do not share a definition in Chapter 510.
  - (c) Construction of a new principal structure.
  - (d) Major exterior changes to an existing principal structure.
  - (e) Construction of a new highway access or curb cut.

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- (f) Construction of more than 2,000 square feet of impervious surface.
  - (2) Minor. Any other site plan application as a minor site plan.
  - (3) Effect of Classification. The Zoning Administrator may review minor site plan applications in accordance with Subsection 4302.D. The Development Review Board must review major site plan applications in accordance with Subsection 4302.E.
- 4302.D **Minor Site Plans.** The Zoning Administrator may review minor site plan applications in accordance with the procedures of Chapter 420 and as follows:
- (1) The Zoning Administrator must approve, deny or refer complete minor site plan applications to the Development Review Board within 60 days.
  - (2) To approve a minor site plan application, the Zoning Administrator must find that the applicant has demonstrated that the proposed land development conforms to all applicable standards of these regulations including but not limited to the site plan standards in Chapter 320.
  - (3) The Zoning Administrator may approve a minor site plan application with conditions as necessary to ensure compliance with these regulations.
  - (4) The applicant or other interested person may appeal any of the Zoning Administrator's actions or decisions under this section to the Development Review Board as specified in Section 4601.
- 4302.E **Major Site Plans.** The Development Review Board will review site plan applications as follows:
- (1) The Development Review Board must hold a public hearing and issue a decision on a complete site plan application in accordance with Chapter 450.
  - (2) To approve a site plan application, the Development Review Board must find that the applicant has demonstrated that the proposed land development conforms to all applicable standards of these regulations including but not limited to the site plan standards in Chapter 320.
- 4302.F **State Highways.** In accordance with 24 V.S.A. §4416(b), the applicant must submit a letter of intent from the Vermont Agency of Transportation with any application for proposed land development that involves access to a state highway.

### **Section 4303. Conditional Use Review**

- 4303.A In accordance with 24 V.S.A. 4414(3), the specific land uses that require conditional use approval from the Development Review Board are listed in Section 2123 for each zoning district.
- 4303.B The Development Review Board must hold a public hearing and act on a conditional use application in accordance with Chapter 450.
- 4303.C To obtain a conditional use approval, the applicant must demonstrate that the application conforms to all applicable standards of these regulations including but not limited to the conditional use standards in Chapter 330.

**Section 4304. Combined Review**

- 4304.A In accordance with 24 V.S.A. §4462, when land development requires more than one development approval, the applicant may request that the Development Review Board hold a single hearing for the purpose of reviewing and acting on the project.
- 4304.B The hearing for a combined review must be warned in accordance with Chapter 450. The notice must:
- (1) Include a statement that the hearing will be a combined review of the proposed land development; and
  - (2) List each type of review the Development Review Board will conduct.
- 4304.C All hearing and decision requirements, and all deadlines applicable to each review process will apply.
- 4304.D The Development Review Board may issue separate written decisions for each review conducted as part of the combined hearing, but decisions should be coordinated where appropriate.

**Section 4305. Amending Approved Plans**

- 4305.A The Development Review Board must review any request to amend an approved plan that the Zoning Administrator cannot approve under Section 4204.
- 4305.B The process for applying for an amendment will be the same as for the original approval.
- 4305.C The process for reviewing and issuing a decision on an amendment will be the same as for the original approval except that the scope of the review will be limited to those aspects of the plan affected by the proposed amendment.
- 4305.D The applicant must demonstrate that the proposed amendment is justified due to changes:
- (1) In factual or regulatory circumstances that were beyond the applicant's control;
  - (2) In the construction or operation of the proposed land development that were not reasonably foreseeable at the time of the original application; or
  - (3) In technology.
- 4305.E The Development Review Board may determine that the proposed amendment would change the approved development to such an extent that it needs to be reviewed as a new application, and may deny the amendment request and require the applicant to apply for a new zoning permit and any associated development approvals.
- 4305.F The approval of an amendment will not affect the expiration date of the original permit and any associated development approvals.

## **Chapter 440. Subdivision and PUD Review Procedures**

### **Section 4401. Applicability**

- 4401.A In accordance with 24 V.S.A §4418 and 4463, a landowner must not subdivide land without first recording an approved subdivision plat in the town's land records in full conformance with these regulations.
- 4401.B A landowner may file boundary surveys and/or corrective deeds to repair boundary metes and bounds or to correct technical errors with previously recorded surveys or deeds for existing lots with known boundaries without obtaining subdivision approval under these regulations.
- 4401.C A planned unit development (PUD) will require subdivision approval under these regulations. If a planned unit development will also require site plan and/or conditional use approval, the Development Review Board will conduct those reviews concurrently with subdivision review as authorized in Section 4304.

### **Section 4402. Lot Line Adjustment and Lot Merger**

- 4402.A The Zoning Administrator may approve the realignment, relocation or elimination of a boundary line between adjoining lots in accordance with the procedures of Chapter 420 provided that the proposed change:
- (1) Will not result in an increase in the number of lots.
  - (2) Will not create a new nonconforming lot or structure (it may involve a pre-existing nonconformity).
  - (3) Will not substantially increase the degree of nonconformity of a pre-existing nonconforming lot or structure.
  - (4) Will not violate any conditions of a prior permit or approval.
- 4402.B The Zoning Administrator may refer applications to the Development Review Board for review as a minor subdivision.
- 4402.C Within 180 days after the Zoning Administrator approves an application, the applicant must file a final subdivision plat for recording in the town's land records in accordance with Section 4408.

### **Section 4403. Pre-Application Conference**

- 4403.A The applicant may schedule a pre-application conference with the Zoning Administrator prior to filing an application for subdivision review to discuss the proposed subdivision, application requirements and review process.

### **Section 4404. Sketch Plan Review**

- 4404.A In accordance with 24 V.S.A. §4455 and 4418(2)(B), the applicant must file a complete sketch plan for review by the Zoning Administrator.

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- 4404.B The purpose of sketch plan review is to provide the applicant with an opportunity to consult with and receive feedback from the Zoning Administrator prior to spending time and money preparing detailed plans.
- 4404.C The Zoning Administrator may forward the sketch plan to other town departments and/or advisory committees for review and comment as appropriate.
- 4404.D The Zoning Administrator must send the applicant a written response to a complete sketch plan application within 60 days of its filing that:
- (1) Indicates whether the subdivision as proposed conforms to the standards of these regulations.
  - (2) Makes recommendations to guide the applicant in preparation of more detailed plans.
  - (3) Requests any additional application materials deemed necessary to determine compliance with these regulations.
  - (4) Determines whether the applicant will be required to file a preliminary plan or may file a final plan for review by the Development Review Board in accordance with Section 4405.
- 4404.E The Zoning Administrator's actions under this section will not constitute a formal decision on the subdivision plan.
- 4404.F The applicant or other interested person may appeal any of the Zoning Administrator's actions or decisions under this section to the Development Review Board as specified in Section 4601.

### **Section 4405. Classification**

- 4405.A **Major Subdivision.** The Zoning Administrator will classify a proposed subdivision that includes any of the following as a major subdivision:
- (1) A subdivision that will create 7 or more lots from a parent parcel in any 5-year period (inclusive of the parent parcel).
  - (2) A subdivision that will create 4 or more lots from a parent parcel in any 5-year period if more than two of the resulting lots will be further subdividable under these regulations (inclusive of the parent parcel).
  - (3) A subdivision that will require construction of a new, extended or upgraded road.
  - (4) A planned unit development (PUD) containing 7 or more dwelling units or principal nonresidential uses.
- 4405.B **Minor Subdivision.** The Zoning Administrator will classify any other proposed subdivision as a minor subdivision.



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4405.C **Effect of Classification.** An applicant for a major subdivision approval must submit a preliminary and final plan for review and approval by the Development Review Board in accordance with the provisions of this chapter. The Development Review Board must hold separate hearings on the preliminary and final plan. An applicant for a minor subdivision approval may skip the preliminary approval process and submit a final plan for review and approval by the Development Review Board in accordance with the provisions of this chapter.

### **Section 4406. Preliminary Plan Review**

4406.A When required under Section 4405, the applicant must file a complete application and preliminary subdivision plan for consideration by the Development Review Board.

4406.B The purpose of preliminary review is to examine the proposed subdivision in detail, take public comment on the plan, evaluate the plan's conformance with the purposes and specific standards of these regulations, and determine whether modifications or conditions will be necessary to ensure that conformance.

4406.C In accordance with 24 V.S.A. §4463(a), the Development Review Board must hold a public hearing and act on a preliminary subdivision plan in accordance with Chapter 450. In the case of a subdivision proposed within 500 feet of the town boundary, the Zoning Administrator must also send a notice to the clerk of the adjacent municipality.

4406.D To approve a preliminary subdivision application, the Development Review Board must find that the applicant has demonstrated that the proposed subdivision conforms to all applicable standards of these regulations including but not limited to the subdivision standards in Chapter 340. If the application is for a planned unit development (PUD) that includes proposed land development subject to site plan and/or conditional use approval, the Development Review Board must also find that the applicant has demonstrated that the proposed PUD conforms to the standards in Chapter 320 and/or Chapter 330 as applicable.

4406.E The Development Review Board's written decision on the preliminary plan must include:

- (1) Findings of fact that address the applicable standards of these regulations;
- (2) Any conditions of approval;
- (3) Any specific changes required in the final subdivision plan;
- (4) The issues to be analyzed and addressed in the final subdivision application; and
- (5) Any additional application materials deemed necessary to determine compliance with these regulations.

4406.F Copies of the written decision will be:

- (1) Sent to the applicant via certified mail;
- (2) Regular mail to interested parties; and
- (3) Forwarded to the Director of Public Works.

4406.G Once the Development Review Board approves a preliminary plan, the applicant will have 6 months to file a complete final subdivision plan.

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### **Section 4407. Final Plan Review**

- 4407.A The applicant must file a complete application and final subdivision plan for consideration by the Development Review Board.
- 4407.B The purpose of final review is to evaluate the plan's conformance with the purposes and specific standards of these regulations and, if applicable, assure that all conditions imposed on the preliminary plan have been met.
- 4407.C In accordance with 24 V.S.A. 4463(a), the Development Review Board must hold a public hearing and act on a final subdivision plan in accordance with Chapter 450. In the case of a subdivision proposed within 500 feet of the town boundary, the Zoning Administrator must also send a notice to the clerk of the adjacent municipality.
- 4407.D To approve a final subdivision application, the Development Review Board must find that the applicant has demonstrated that the proposed subdivision conforms to all applicable standards of these regulations including but not limited to the subdivision standards in Chapter 340. If the application is for a planned unit development (PUD) that includes proposed land development subject to site plan and/or conditional use approval, the Development Review Board must also find that the applicant has demonstrated that the proposed PUD conforms to the standards in Chapter 320 and/or Chapter 330 as applicable.
- 4407.E In accordance with 24 V.S.A. §4463(c), the Development Review Board's approval of a final plan will not constitute the town's acceptance of any road, easement, open space or other feature shown on the plan. Action by the Selectboard is required to accept any road, easement, open space or other feature for public ownership.

### **Section 4408. Filing Requirements**

- 4408.A In accordance with 24 V.S.A. §4463(b), the applicant must file a final subdivision plat for filing in the town's land records within 180 days of the Development Review Board's final approval except:
- (1) If the subdivision will be phased, the applicant must file a plat for the first phase within 180 days and for subsequent phases in accordance with any schedule or time period established in the decision. If no timeframe is specified in the decision, the applicant must file the plat for all phases within 180 days.
  - (2) Upon written request by the applicant prior to the expiration of the 180 days, the Zoning Administrator may grant a written 90-day extension to the filing deadline if other local or state permits are still pending.
- 4408.B In accordance with 27 V.S.A. §1403, the form and content of the final subdivision plat must meet all town and state requirements.
- 4408.C Prior to being filed in the land records, the Chair of the Development Review Board must sign the final subdivision plat. If a final plat is recorded without that signature, it will be considered null and void unless re-approved by the Development Review Board. The Zoning Administrator may sign a plat approved under Section 4204 or Section 4402.

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4408.D No one must make any changes, erasures, modifications or revisions to a final plat after it has been signed except in accordance with Section 4409. If a modified plat is recorded in violation of this requirement, it will be considered null and void unless re-approved by the Development Review Board.

4408.E Once properly filed, a final subdivision plat will not expire.

### **Section 4409. Modification of Approved Subdivisions**

4409.A The Development Review Board must review any request to amend an approved final plat that the Zoning Administrator cannot approve under Section 4204 or Section 4402.

4409.B The Department of Public Works may issue a written authorization modifying the design of any public improvement at any time before or during construction provided that the Zoning Administrator finds that such modification would not result in a material change to the approved subdivision. The applicant must submit a copy of any such authorization to the Zoning Administrator.

4409.C The process for applying for an amendment will be the same as for the original approval.

4409.D The process for reviewing and issuing a decision on an amendment will be the same as for the original approval except that the scope of the review will be limited to those aspects of the subdivision affected by the proposed amendment.

## **Chapter 450. Notice, Hearing and Decision Procedures**

### **Section 4501. Notice of Hearing**

4501.A In accordance with 24 V.S.A. §4464(a)(1), the Zoning Administrator must notify the public at least 15 days before a hearing for all conditional use, variance, appeal, and final subdivision applications by all of the following:

- (1) Publishing the date, place and purpose of the hearing in a newspaper of general circulation in Milton.
- (2) Posting the date, place and purpose of the hearing on the town's website, at the town office and at least one other public place within Milton.
- (3) Providing the applicant with a sign with the date, place and purpose of the hearing to be posted on the subject property within public view.
  - (a) It will be the applicant's responsibility to ensure that the notice remains posted for the entire warning period and to remove the sign within 2 days of the close of public hearing.
- (4) Notifying the owners of all properties adjoining the subject property (including those across the road) in writing.
  - (a) The notification must include a description of the proposed project and must clearly explain to the recipient where to obtain additional information and that he/she must participate in the hearing in order to have the right to any subsequent appeal.

4501.B In accordance with 24 V.S.A. §4464(a)(2), the Zoning Administrator must notify the public at least 7 days before a hearing for any other Development Review Board actions under these regulations by all of the following:

- (1) Posting the date, place and purpose of the hearing at the town office and at least two other public places within Milton.
- (2) Notifying the owners of all properties adjoining the subject property (including those across the road) in writing.
  - (a) The notification must include a description of the proposed project and must clearly explain to the recipient where to obtain additional information and that he/she must participate in the hearing in order to have the right to any subsequent appeal.

4501.C In accordance with 24 V.S.A. §4464(a)(5), a defect in the form or substance of the public notice requirements will not invalidate any action or decision under these regulations when a reasonable effort has been made to provide adequate posting and notice.

### **Section 4502. Conducting Site Visits**

4502.A The Zoning Administrator or Development Review Board may require an applicant to grant them access to a site prior to making a decision on an application when deemed necessary to ensure compliance with these regulations.

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- 4502.B A site visit must be warned and conducted as part of the public hearing on an application in accordance with Chapter 450 and open to the public if a quorum of Development Review Board members will be present.

### **Section 4503. Conducting a Hearing and Taking Evidence**

- 4503.A The Development Review Board must hold a public hearing within 60 days of the Zoning Administrator determining that an application is complete unless otherwise specified in these regulations or the applicant agrees to a later hearing date.
- 4503.B The Development Review Board must conduct public hearings, hear testimony and take evidence according to its adopted rules of procedures.
- 4503.C All hearings must be open to the public as follows:
- (1) Any individual or group may appear and participate in a public hearing in person or by authorized representative or counsel, or may submit written testimony in advance of the hearing.
  - (2) The Development Review Board must give all those wishing to participate an opportunity to be heard as is relevant to the proceeding.
- 4503.D The applicant or an authorized representative must be present at any public hearing or meeting when the Development Review Board will be considering his/her application.
- (1) The Development Review Board will continue its consideration of an application to its next regularly scheduled meeting if the applicant or an authorized representative is not present.
  - (2) In the case of such a continuation, the intervening days will not be counted as part of any time period within which the Development Review Board is required to act.
- 4503.E Development Review Board members must not communicate directly or indirectly with any applicant, interested person or their representative regarding a matter that is under consideration except during a properly noticed hearing. Failure to disclose any and all discussion regarding a pending matter occurring outside of the hearing is cause for removal.

### **Section 4504. Recessing a Hearing**

- 4504.A The Development Review Board may recess a hearing on any application pending submission of additional information necessary to determine compliance with these regulations or upon the applicant's request.
- 4504.B If the Development Review Board recesses a hearing to a specific date and time, the hearing will not have to be warned again when resumed.
- 4504.C In the case of a recess, the intervening days will not be counted as part of any time period within which the Development Review Board is required to act.

**Section 4505. Re-opening a Closed Hearing**

- 4505.A The Development Review Board may re-open a closed hearing prior to the time to act in 4506.B by re-noticing the hearing in accordance with Section 4501. The notice must include a statement providing reasons why the Development Review Board has taken action to re-open the hearing.

**Section 4506. Decisions**

- 4506.A **Deliberations.** In accordance with 24 V.S.A. §4464(b), following the closing of a hearing, the Development Review Board may deliberate and make a decision on the application in a closed deliberative session.
- 4506.B **Time to Act.** Within 45 days of closing a hearing, the Development Review Board must issue a written decision to approve, approve with conditions or deny the application.
- 4506.C **Deemed Approval.** If the Development Review Board does not issue a decision within 45 days of closing a hearing, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the board's failure to act resulted in a "deemed approval" of the application.
- 4506.D **Findings.** The written decision must include a statement of the facts upon which the Development Review Board is basing its decisions and a statement of conclusions relating to the applicable review criteria and standards of these regulations.
- 4506.E **Conditions of Approval.** The Development Review Board:
- (1) May attach any conditions it deems necessary to an approval to achieve the purposes of these regulations including, but not limited to:
    - (a) Specific performance standards such as limitations on hours of operation, noise, light or other off-site impacts;
    - (b) Required improvements to public facilities or infrastructure to serve the proposed development;
    - (c) Schedule or phasing of development;
    - (d) Inspection or monitoring; and/or
    - (e) Performance bonds.
  - (2) Must specifically describe any conditions or limitations in the written decision. Any conditions attached to the Development Review Board's approval will be considered part of any subsequent zoning permit issued by the Zoning Administrator for the approved land development.
- 4506.F **Submittal of Revised Plans.** If the Development Review Board attaches conditions on an approval that require amendments to a site or subdivision plan, the applicant must submit an amended site or subdivision plan that satisfies those conditions prior to Zoning Administrator issuing a zoning permit.
- 4506.G **Notification and Filing.** The Development Review Board must:
- (1) Send a copy of the decision to applicant by certified mail;
  - (2) Send a copy of the decision to all others who participated in the hearing;
  - (3) File a copy of the notice of municipal land use permit with the Town Clerk; and

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- (4) File a copy of the decision with the Zoning Administrator.

4506.H **Effect and Expiration.** If the approved land development or use is:

- (1) Not substantially completed or commenced before the zoning permit expires as established in Section 4203, the development approval will expire with the zoning permit.
- (2) Substantially completed or commenced before the zoning permit expires as established in Section 4203, the development approval will remain in effect unless the use is discontinued as established in Section 1205. Development Review Board approvals and any related conditions run with the land and remain in effect irrespective of whether the property changes ownership.
- (3) Amended in accordance with Section 4204 or Section 4305, the amendment will not affect the expiration date of the original permit and any related development approval.

## **Chapter 460. Appeal Procedures**

### **Section 4601. Who May Appeal**

- 4601.A In accordance with 24 V.S.A. §4465, an interested person may appeal an action taken or decision made under these regulations as specified in this chapter.
- 4601.B For the purposes of these regulations, an interested person is:
- (1) An applicant who alleges that these regulations impose unreasonable or inappropriate restrictions on the existing or future use of his/her property.
  - (2) The Town of Milton or any adjoining municipality.
  - (3) A person owning or occupying property in the immediate neighborhood of proposed land development who can demonstrate:
    - (a) A physical or environmental impact on his/her interests; and
    - (b) That the action taken or decision made under these regulations is not in accord with the policies, purposes, or terms of these regulations or the *Milton Comprehensive Plan*, as most recently adopted.
  - (4) Any combination of at least 10 voters or landowners in the Town of Milton who by signed petition allege that the relief an applicant is requesting under this chapter is not in accord with the policies, purposes, or terms of these regulations or the *Milton Comprehensive Plan*, as most recently adopted.
  - (5) Any department or administrative subdivision of the state that owns property or interest in property in the Town of Milton, and the Vermont Agency of Commerce and Community Development.

### **Section 4602. Appeals of Zoning Administrator Decisions**

- 4602.A In accordance with 24 V.S.A. §4466, 4468, 4470, and 4472, an interested person may appeal any act or decision of the Zoning Administrator, including a failure to act, to the Development Review Board by filing two copies of a notice of appeal and any applicable fees with the Planning Director within 15 days of the date of the Zoning Administrator's action or decision. In cases where the Planning Director served as the Zoning Administrator in the matter of the appeal, the interested person may file the appeal with the Town Clerk.
- 4602.B The Planning Director or Town Clerk will forward the notice of appeal to the Development Review Board and the Zoning Administrator.
- 4602.C A notice of appeal must be in writing and must include all of the following information:
- (1) The name and address of the appellant (the person filing the appeal).
  - (2) A copy of the Zoning Administrator's decision or description of the action/inaction (if appealing a zoning permit, also include a copy of the permit application);
  - (3) A brief description of the subject property;



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- (4) A reference to the section(s) of these regulations that the appellant alleges the Zoning Administrator has not properly followed or applied; and
  - (5) A statement of the relief the appellant is requesting and why the appellant believes the requested relief to be appropriate under the circumstances.
- 4602.D If an appeal is filed by a group of interested persons, then the notice of appeal must designate one person to serve as a representative of the group regarding all matters related to the appeal.
- 4602.E Upon receipt of a complete notice of appeal, the Development Review Board must:
  - (1) Hold a public hearing and act on the appeal in accordance with Chapter 450.
  - (2) Reject the appeal without a hearing and render a decision within 10 days of the appellant filing the notice, if the Development Review Board determines that it decided the issues in an earlier appeal.
- 4602.F An appeal to the Development Review Board is the exclusive remedy for an interested person with respect to an action or decision of the Zoning Administrator.
- 4602.G If no interested person appeals the Zoning Administrator's action or decision to the Development Review Board within 15 days, the action or decision cannot be contested at a later time.

### **Section 4603. Appeals of Development Review Board Decisions**

- 4603.A In accordance with 24 V.S.A. §4471, any interested person who participated in a hearing on a matter before the Development Review Board may appeal the board's action or decision to the Environmental Division of the Vermont Superior Court within 30 days of the date of the board's action or decision.
- 4603.B The appellant must send a notice of appeal to every interested person who participated in the hearing by certified mail. The Zoning Administrator must provide a prospective appellant with the interested person list upon request.
- 4603.C If the Zoning Administrator has issued a zoning permit based on a Development Review Board approval, then the appeal of that approval will be considered an appeal of the zoning permit as well and the applicant must not commence any use or development authorized by the zoning permit until the appeal is resolved. An interested person cannot use the procedures of Section 4602 to appeal the Zoning Administrator's issuance of a zoning permit implementing a Development Review Board approval.
- 4603.D An appeal to the Environmental Division of the Vermont Superior Court is the exclusive remedy for an interested person with respect to an action or decision of the Development Review Board except as otherwise provided by state statute.
- 4603.E If no interested person appeals a Development Review Board action or decision to the Environmental Division of the Vermont Superior Court within 30 days, all interested persons will be bound by that action or decision and will not be able to contest it at a later time.

**Section 4604. Waivers**

4604.A In accordance with 24 V.S.A. §4414(8), and to further the purposes of these regulations in accordance with Section 1003, the Development Review Board:

- (1) May approve waivers that authorize an adjustment of up to 10% to a dimensional standard of these regulations.
- (2) May approve waivers that reduce front, side or rear setbacks by not more than 50% and to not less than 10 feet.
- (3) May approve waivers that allow expansion of the footprint of pre-existing structures up to 25% from the footprint that existed on September 18, 2017 (including structures that have or would have a nonconforming footprint if expanded).
- (4) Must not approve waivers to reduce any riparian or wetland setback or buffer required under these regulations.
- (5) Must not approve waivers for land development within the Flood Hazard Overlay District.
- (6) Must not approve a waiver to allow a prohibited use, an increase in residential density, or the subdivision of a nonconforming lot.

4604.B The applicant must file a written request for a waiver and all applicable zoning permit and development approval applications with the Zoning Administrator that includes all of the following:

- (1) A brief description of the subject property and proposed land development;
- (2) A reference to the dimensional standard(s) of these regulations that the applicant is requesting a waiver from;
- (3) The specific modification(s) that the applicant is requesting; and
- (4) A response to each of the applicable criteria in Figure 4-01.

4604.C In accordance with 24 V.S.A. §4464(a)(1)(C), the Development Review Board must hold a public hearing and act on the waiver request in accordance with Chapter 450. If the applicant is requesting a waiver from the required setback from a state highway, notice of the hearing must also be sent to the Vermont Secretary of Transportation.

4604.D To obtain a waiver, the applicant must demonstrate that all of the applicable criteria specified in Figure 4-01 have been met.

**Section 4605. Variances**

4605.A In accordance with 24 V.S.A. §4469, and to further the purposes of these regulations in accordance with Section 1003, the Development Review Board:

- (1) May approve variances that authorize more substantial adjustments to the standards of these regulations under the specific circumstances described in this section.
- (2) Must not approve a variance to allow a prohibited use, an increase in residential density, or the subdivision of a lot that does not conform to the applicable provisions of these regulations.

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- 4605.B The applicant must file a complete zoning permit application and a written request for a variance with the Zoning Administrator that includes all of the following:
- (1) A brief description of the subject property and proposed land development.
  - (2) A reference to specific provision(s) of these regulations that the applicant is requesting a variance from.
  - (3) The specific modification(s) that the applicant is requesting.
  - (4) A response to each of the criteria in Figure 4-01.
- 4605.C In accordance with 24 V.S.A. §4464(a)(1)(C), the Development Review Board must hold a public hearing and act on the variance request in accordance with Chapter 450. If the applicant is requesting a variance from the required setback from a state highway, notice of the hearing must also be sent to the Vermont Secretary of Transportation.
- 4605.D To obtain a variance, the applicant must demonstrate that all of the applicable criteria specified in Figure 4-01 have been met as follows:
- (1) If the variance is for a renewable energy structure, only the criteria specific to a renewable energy variance apply.
  - (2) If the variance is for development within the Flood Hazard Overlay District, only the criteria specific to a flood hazard variance apply.
  - (3) For all other variances, the general variance criteria apply.
- 4605.E If the Development Review Board approves a variance for development within the Flood Hazard Overlay District, the written decision must state that *“Building a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums.”*

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Figure 4-01. **Waiver and Variance Review Criteria**

CRITERIA	WAIVER	GENERAL VARIANCE	RENEWABLE ENERGY VARIANCE	FLOOD HAZARD VARIANCE
1 The proposed land development will not alter the essential character of the area or district in which the property is located.	☐	☐	☐	☐
2 The proposed land development will not substantially or permanently impair the lawful use or development of adjacent property.	☐	☐	☐	☐
3 The proposed land development will not be detrimental to public health, safety or welfare.	☐	☐	☐	☐
4 The proposed land development is beneficial or necessary for the continued reasonable use of the property.	☐	–	–	–
5 The applicant is proposing adequate mitigation of any dimensional encroachment through design, screening or other remedy.	☐	–	–	–
6 The applicant has not created the unnecessary hardship.	–	☐	☐	☐
7 The applicant is proposing the least deviation possible from these regulations that will afford relief.	–	☐	☐	☐
8 There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property. These conditions, and not the circumstances or conditions generally created by the provisions of these regulations in the district in which the property is located, have created an unnecessary hardship for the applicant. These physical circumstances or conditions prevent the property from possibly being developed in strict conformity with these regulations and a variance is necessary to enable reasonable use of the property.	–	☐	–	☐
9 The proposed land development meets all applicable federal and state rules for compliance with the National Flood Insurance Program.	–	–	–	☐
9 It would be unusually difficult or unduly expensive for the applicant to build a renewable energy structure in conformance with these regulations.	–	–	☐	–
10 The proposed land development will not reduce access to renewable energy resources on adjacent property.	–	–	☐	–
<b>KEY</b> ☐ Applicable                      – Not Applicable				

## **Chapter 470. Enforcement Procedures**

### **Section 4701. Investigation and Action by the Zoning Administrator**

4701.A The Zoning Administrator must investigate alleged violations of these regulations. A violation includes, but is not limited to, a landowner:

- (1) Commencing land development for which zoning permit or development approval is required without first obtaining such an approval or permit.
- (2) Failing to comply with all requirements, representations and conditions of any approved plan or permit.
- (3) Commencing or continuing land development if the permit or approval authorizing the work has expired.
- (4) Selling, transferring or offering to sell or transfer land unless a subdivision plat has been approved and filed in full compliance with these regulations.

4701.B The Zoning Administrator may enter onto any property as necessary to investigate an alleged violation of these regulations. If a landowner or occupant refuses to allow the Zoning Administrator onto the property, the Zoning Administrator may seek a warrant as authorized by state law.

4701.C The Zoning Administrator must take appropriate action in an effort to enforce these regulations including, but not limited to any combination of the following:

- (1) Requiring the applicant to apply for a curative zoning permit.
- (2) Requiring the immediate removal of a violating structure or cessation of a violating use.
- (3) Denying a certificate of compliance.
- (4) Imposing fines and penalties to the maximum extent allowed under state law until the property owner remedies the violation.

4701.D Upon determining that a violation of these regulations exists, the Zoning Administrator must either issue a municipal civil complaint ticket (see Section 4703) or a notice of violation (see Section 4704) as he/she deems appropriate.

4701.E The Zoning Administrator must not enforce any violation:

- (1) That has existed for more than 15 years. The burden of proof to demonstrate the date the alleged violation first occurred is the responsibility of the landowner in accordance with 24 V.S.A. §4454(a).
- (2) Of a zoning permit that was issued after July 1, 1998 and was not filed in the town's land records in accordance with 24 V.S.A. §4454(b)

4701.F Nothing in this chapter will prevent the Town of Milton from exercising its authority to abate or remove public health risks or hazards.

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### **Section 4702. Liability and Penalties**

- 4702.A The landowner will be held responsible for any violation and be subject to any penalties imposed under these regulations.
- 4702.B A violation of these regulations is a civil offense.
- 4702.C Each day that a violation exists constitutes a separate offense.
- 4702.D If any enforcement action results in the need for the Zoning Administrator or Development Review Board to issue a new zoning permit or associated development approval, penalties that increase the cost of the standard fees may be established in accordance with Section 4101.

### **Section 4703. Municipal Civil Complaint Ticket**

- 4703.A In accordance with 24 V.S.A. §4452, the Zoning Administrator may issue a municipal complaint ticket for any violation of these regulations in accordance with the Judicial Bureau's procedure for municipal complaint tickets.
- 4703.B A violation ticketed under this section will be punishable by a fine of:
- (1) \$100 for a first offense, with a waiver fee of \$50.
  - (2) \$250 for a second offense ticketed for the same violation within 1 year, with a waiver fee of \$125.
  - (3) \$500 for a third and any subsequent offense ticketed for the same violation within one year, with a waiver fee of \$250.
- 4703.C Upon the fourth offense, the town may request that the case be transferred from the Judicial Bureau to the Environmental Division of Superior Court or another court of competent jurisdiction.

### **Section 4704. Notice of Violation**

- 4704.A In accordance with 24 V.S.A. §4451, the Zoning Administrator may issue a notice of violation for any violation of these regulations.
- 4704.B The Zoning Administrator must:
- (1) Send a notice of violation to the landowner by certified mail that:
    - (a) Describes the violation;
    - (b) Identifies the specific provision(s) of these regulations being violated;
    - (c) States the specific action required to cure the violation;
    - (d) States that if the violation is not cured within 7 days, the town may institute court proceedings to obtain a court order directing compliance with these regulations and awarding fines up to the maximum amount allowed under state statute for each day that the violation continues from the date of the notice;
    - (e) States that further enforcement may occur without notice and an opportunity to cure if the violation occurs again within the next 12 months; and

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- (f) States that the notice of violation may be appealed as per Section 4602.
  - (2) Deliver a copy of a notice of violation to the Town Clerk for recording.
- 4704.C Upon failure of the landowner to cure a violation of these regulations, the Town of Milton may institute appropriate court action.

## **PART 5. DEFINITIONS**

### **Chapter 500. Interpretation**

#### **Section 5001. General**

- 5001.A The words used in these regulations have their normal dictionary meaning unless they are specifically defined in this chapter or elsewhere within these regulations.
- 5001.B The words defined in these regulations have the specific meaning stated unless the context clearly indicates that they have another meaning.
- 5001.C The definitions identified as being from state statute are intended to be consistent with that statute.
- 5001.D These regulations use “must,” “shall” and “will” to express that something is required. They use “must not,” “shall not” and “will not” to express that something is prohibited. They use “may” and “may not” for discretionary actions. They use “should” and “should not” when something is encouraged or discouraged.
- 5001.E These regulations use “parcel” and “lot” interchangeably to refer to areas of land delineated in a recorded subdivision plat or deed.
- 5001.F These regulations use “site” or “property” to refer to an area of land subject to a development project, regardless of whether it is an entire parcel, a portion of a parcel, or multiple parcels.
- 5001.G These regulations use “landowner,” “applicant” and “developer” to refer to the party responsible or authorized to act under these regulations. Those terms may include any individual designated to act on behalf of the landowner or applicant.
- 5001.H These regulations use “business” to refer generally to any nonresidential land use, regardless of whether it is a for-profit or non-profit enterprise.
- 5001.I These regulations use “home,” “residence,” “dwelling” to refer to a dwelling unit that is intended for occupancy by a single household regardless of structure type or tenure (owned or rented).

#### **Section 5002. Calculation and Measurements**

- 5002.A The calculation of time periods defined in these regulations as a specific number of days will be based on calendar days and will not include the first day (i.e., the day an action was taken) but will count the final day (i.e., the day a hearing was held).



## Chapter 510. Land Use Definitions

### Section 5101. Residential

- (1) **Single-Family Dwelling.** A single-unit structure intended for habitation by one household that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation.
- (2) **Duplex.** A two-unit structure intended for habitation by two households each in a unit that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation, and with each unit having a separate entrance from the outside or through a common vestibule.
- (3) **Multi-Family Dwelling.** A structure or part of a structure containing three or more dwelling units each intended for habitation by one household and providing complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation. It may be established within multi-family, upper floor residential or retirement housing buildings.
- (4) **Upper Floor Residential.** A dwelling units that is located above the ground floor of a structure intended for habitation by one household that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation with each unit having a separate entrance through a common vestibule. This definition specifically excludes duplex and accessory dwelling.
- (5) **Accessory Dwelling.** A second dwelling unit within a single-family dwelling or an accessory building on the same lot as a single-family dwelling that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation having a separate entrance from outside or through a common vestibule. This definition specifically excludes duplex. See Section 1110.
- (6) **Accessory Home Office.** A small workspace located within the operator's dwelling as an accessory use of which there is no exterior evidence and that does not alter the residential character of the property. See Paragraph 1101.A(5).
- (7) **Accessory Home Occupation.** A small business located on the operator's residential property as an accessory use that does not alter the residential character of the property. See Section 1109.
- (8) **Accessory Home Business.** A small business located on the operator's residential property as an accessory use that may alter the residential character of the property. See Section 3102.
- (9) **Group Home.** One or more structures licensed and operated to house people with disabilities. See Section 1104.
- (10) **Accessory Family Childcare Home.** A small daycare business located on the operator's residential property as an accessory use. See Section 1111.
- (11) **Retirement Housing.** A residential structure or development designed and operated to primarily house people age 55 or older that:
  - (a) Contains multiple dwelling units each intended for habitation by one household and providing complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation; and

## Town of Milton Unified Development Regulations • Part 5. Definitions

- (b) May offer minimum convenience services to residents.
- (12) **Assisted Living.** One or more structures intended to provide housing, board and care to residents who need assistance with daily activities such as dressing, grooming, bathing, etc. and that operates under state license. Care providers may also live on-site or provide these services from their home.
- (13) **Skilled-Nursing Services.** One or more structures intended to provide housing and 24-hour skilled nursing care to residents and that operates under state license. This includes nursing and convalescent homes.

### Section 5102. Lodging

- (1) **Accessory Short-Term Rental:** A single-unit structure principally occupied by the owner intended to provide short-term accommodation to travelers. See Paragraph 1101.A(6).
- (2) **Bed and Breakfast.** One or more structures intended to provide short-term accommodations for travelers operated primarily in private homes. See Section 3104.
- (3) **Inn.** One or more structures intended to provide short-term accommodations for travelers operated primarily in private homes. Meals and alcoholic beverages may also be provided as a secondary service to guests and other patrons. See Section 3105.
- (4) **Rooming and Boarding House.** One or more structures intended to provide accommodations operated in private homes that will typically serve as the boarder's principal residence, and that commonly includes meals, housekeeping and/or laundry services. See Section 3106.
- (5) **Hotel or Motel.** One or more structures intended to provide short-term accommodations for travelers. They may also offer food services, recreational services, convention hosting, laundry services, etc. See Section 3107.

### Section 5103. Commercial

- (1) **Retail Sales.** An establishment that sells goods to the general public for personal or household consumption primarily from within an enclosed structure, excluding any use specifically defined in this section. It may also provide installation, repair or maintenance services as an accessory use.
- (2) **Sales Lot.** An establishment that sells large items such as vehicles, boats, equipment, machinery, manufactured homes or prefabricated buildings primarily from an open lot. It may also provide as an accessory use installation, rental, repair or maintenance services for items sold. This definition specifically excludes salvage yard. See Section 3108 for accessory repair service.
- (3) **Repair Service.** An establishment that maintains, services, repairs or paints large items such as vehicles, boats, equipment or machinery. This definition specifically excludes truck or freight transportation and salvage yard. See Section 3108.
- (4) **Fueling Station.** A specialized establishment for selling gasoline or other vehicle fuels, excluding truck or freight transportation. It may be combined with a carwash and convenience store uses. See Section 3111.
- (5) **Carwash.** A specialized establishment for washing, waxing, polishing and general cleaning of vehicles, excluding truck or freight transportation. See Section 3109.

## Town of Milton Unified Development Regulations • Part 5. Definitions

- (6) **Lawn, Garden and Farm Supply Sales.** An establishment that sells specialized products and services for lawn, garden or farm use. It may:
  - (a) Sell farm supplies such as feed and seed.
  - (b) Sell nursery and garden products, such as trees, shrubs, plants, seeds, bulbs, soil, compost, mulch, or sod. The live products must be predominately grown elsewhere.
  - (c) Sell lawn, garden or farm equipment or machinery as an accessory use.
  - (d) Provide installation, repair or maintenance services as an accessory use.
- (7) **Lumber Yard and Building Material Sales.** An establishment that sells lumber and heavy building materials, and that typically stores most of its stock outdoors or under open-air structures
- (8) **Open Market.** An establishment that sells goods to the general public for personal or household consumption primarily from outdoor areas or open air structures, excluding any use specifically defined in this section.
- (9) **Food or Beverage Store.** An establishment that sells food or beverage items primarily not for immediate consumption to the general public. It may offer prepared foods or drinks for immediate consumption either on-site or for take-out as an accessory use.
- (10) **Convenience Store.** An establishment that sells a limited line of staple food, packaged food, and convenience items primarily for off-site consumption. It may offer prepared foods or drinks for immediate consumption either on-site or for take-out as an accessory use.
- (11) **Financial Establishment.** An establishment that engages in financial transactions that create, liquidate or change ownership of financial assets such as accepting deposits, making loans and issuing currency.
- (12) **Rental and Leasing.** An establishment that rents or leases tangible goods such as vehicles, boats, equipment or machinery to consumer or business customers. It may also provide as an accessory use installation, sales, repair or maintenance services for items leased. This definition specifically excludes salvage yard. This definition specifically excludes salvage yard. See Section 3108 for accessory repair service.
- (13) **Office or Professional Service.** An establishment that: (a) is used to conduct the affairs of a business, organization or profession; or (b) provides services that are reliant on the specialized training, expertise, skills or knowledge of practitioners. This definition specifically excludes services provided by licensed medical practitioners.
- (14) **Personal or Business Service.** An establishment that provides: (a) services on or closely related to the physical person such as laundry, dry cleaning, tailoring, shoe repair, hair salon, nail salon, spa, massage parlor or tattoo parlor; or (b) support services primarily to other businesses such as billing, collection, advertising, telemarketing, copying, mailing, etc. It may include sales of related personal products as an accessory retail use.
- (15) **Veterinary Service.** An establishment where licensed practitioners of veterinary medicine, dentistry or surgery treat animals. It may include grooming, boarding or other pet services as an accessory use. It may include sales of pet food, medicines or supplies as an accessory use.

## **Town of Milton Unified Development Regulations • Part 5. Definitions**

- (16) **Building or Property Maintenance Service.** An establishment that provides building or property maintenance services to consumer or business customers. This definition specifically excludes a contractor's yard.
- (17) **Restaurant.** An establishment that prepares and serves meals, snacks and beverages primarily for immediate consumption. It may also provide catering service as an accessory use. This definition specifically excludes mobile foodservice.
- (18) **Tavern.** An establishment that primarily prepares and serves alcoholic beverages for immediate consumption. It may include food service and entertainment as an accessory use.
- (19) **Event Facility.** An establishment used to host conventions, trade shows, corporate meetings, weddings, receptions, reunions and similar special events that typically includes large open spaces such as auditoriums, banquet halls, exhibition halls and meeting rooms. It may also provide catering service as an accessory use.
- (20) **Mobile Food Service.** An establishment that prepares and serves meals, snacks and beverages primarily for immediate consumption from motorized vehicles or non-motorized carts on a designated site.
- (21) **Catering Service.** An establishment that prepares meals, snacks and beverages to be served at off-premise events.
- (22) **Pet and Animal Service.** An establishment that provides animal and pet care services other than veterinary service such as boarding, grooming, sitting and training, or that breeds, sells or manages adoption of pets. It may include sales of pet food or supplies as an accessory use.
- (23) **Fireworks sales** means an establishment that sells fireworks to the general public for personal or household consumption from within an enclosed structure.

### **Section 5104. Industrial**

- (1) **Light Industry.** An establishment that produces new products, materials or parts in a facility that generally does not rely on specialized power, water or waste disposal systems for operation. All light industrial operations must occur within an enclosed building, which is typically similar to an office building in its size, appearance and impacts. It may include a retail shop as an accessory use that primarily sells products produced on the premises. This definition excludes any use specifically defined in this section.
- (2) **Food or Beverage Manufacturing.** An establishment that produces food or beverage products that are typically sold to wholesalers or retailers. It may include a retail shop, restaurant or tavern as an accessory use that primarily sells products produced on the premises.
- (3) **Handcrafted or Artisanal Manufacturing.** An establishment that produces artisanal or handcrafted goods that are typically custom-designed and/or produced in small quantities. It may include a retail shop as an accessory use that sells products produced on the premises.
- (4) **Laboratory or Research Facility.** An establishment used for research or analysis in the physical, engineering, cognitive or life sciences.

## **Town of Milton Unified Development Regulations • Part 5. Definitions**

- (5) **Wholesale Trade.** An establishment that sells or arranges the purchase of goods to other businesses that is typically located in a warehouse or office with little to no display of merchandise.
- (6) **Warehouse and Storage Service.** An establishment that stores, but does not sell, goods and may provide a range of services related to the distribution of goods. This definition specifically excludes self-storage facility, and tanks farm or fuel distributor.
- (7) **Self-Storage Facility.** An establishment that provides individual storage spaces for lease to either commercial or wholesale customers for storage of business goods, or to the general public for storage of household goods. See Section 3112.
- (8) **Tanks Farm or Fuel Distributor.** An establishment with one or more tanks screened from view off site that typically store fuels, oils and similar liquid products. It may include sale and distribution of such products.
- (9) **Contractor Yard.** An establishment that provides storage for vehicles, machinery, equipment and materials used by a contractor in the construction-related trades screened from off site. It may include a shop for maintaining or repairing the contractor's vehicles, machinery or equipment or the contractor's business office.
- (10) **Heavy Industry.** An establishment that produces new products, materials or parts from a site and/or structure(s) with specialized power, water or waste disposal systems for operation. Heavy industrial operations may involve processing of raw materials, use of large machinery or other complex operations, some of which may occur outside an enclosed building, and/or operate continuously.

### **Section 5105. Transportation, Communication and Utilities**

- (1) **Parking.** An establishment that provides short-term storage for registered, operable passenger vehicles as its primary function.
- (2) **Transit Facility.** An establishment that provides public transportation services.
- (3) **Truck or Freight Transportation.** An establishment that provides over-the-road transportation of cargo using trucks and tractor trailers or that provides services such as maintenance, repair or fuel for heavy vehicles including trucks, tractor trailers or buses.
- (4) **Publishing and Printing.** An establishment that issues copies of works that are usually protected by copyright. It may print, reproduce, distribute, or offer direct access to works such as newspapers, magazines, periodicals, books, databases, calendars, greeting cards, maps, posters, software, sound recordings or video recordings.
- (5) **Media Studio.** An establishment that is used to produce, distribute and/or broadcast sound or video programs or recordings.
- (6) **Communication Antenna.** A device used to transmit or receive radio, television or other wireless communications and related structures and equipment. This definition specifically excludes a communication tower. See Section 3114.
- (7) **Communication Tower.** A structure used to support one or more communication antennas and related structures and equipment. See Section 3114.
- (8) **Data Center or Information Service.** An establishment used to:
  - (a) House computer systems and associated components such as telecommunications

## Town of Milton Unified Development Regulations • Part 5. Definitions

and storage systems. It generally includes redundant or back-up power supplies and communications connections, environmental controls and security devices; or

- (b) Provide electronic data processing services or that supply information including internet access or service providers, and electronic library or archive services.
- (9) **Essential Service.** An establishment that is necessary to provide or distribute a utility service such as electricity, gas, telephone, cable, water, sewer or stormwater to customers.
- (10) **Waste Service.** An establishment used for collecting, sorting, processing, recycling or composting waste, used or discarded goods or materials. Commonly accessory to retail uses for returnable bottles and cans. This definition specifically excludes landfill and salvage yard.
- (11) **Salvage Yard.** An establishment of outdoor storage or deposit for storing, keeping, processing, buying or selling junk or as scrap metal processing facility as defined in 24 VSA 2241(12). Salvage yard also means any outdoor area used for operation of an automobile graveyard as defined in 24 VSA 2241. It does not mean a garage where wrecked or disabled motor vehicles are store for less than 90 days for inspection or repairs, or private transfer station or sanitary landfill which is license in compliance with Vermont Statutes Annotated. See **Error! Reference source not found..**

### Section 5106. Art, Entertainment and Recreation

- (1) **Performance Theater.** An establishment that presents live entertainment by actors, singers, dancers, musicians or other performing artists to an audience.
- (2) **Movie Theater.** An establishment that shows movies or other recorded entertainment to an audience.
- (3) **Sports Arena.** An establishment used to present live sporting events to an audience.
- (4) **Museum.** An establishment that preserves and exhibits objects, sites and natural wonders of historical, cultural or educational value.
- (5) **Indoor Recreation.** A commercial establishment that offers physical fitness, sports, games and other leisure-time activities primarily from within an enclosed structure.
- (6) **Outdoor Recreation.** A commercial establishment that offers physical fitness, sports, games and other leisure-time activities primarily outside an enclosed structure. This definition specifically excludes marina and campground.
- (7) **Public Recreation.** A non-commercial establishment that offers physical fitness, sports, games and other leisure-time activities that is open to the general public.
- (8) **Marina.** An establishment that provides docking and storage facilities for pleasure boats. It may sell fuel and marine supplies as an accessory use. It may repair, rent, maintain or rent pleasure boats as an accessory use. It may include a restaurant or bar as an accessory use. This definition specifically excludes salvage yard. See Section 3108 for accessory repair service.
- (9) **Campground.** An establishment designed to accommodate campers and their equipment including tents, tent trailers, and recreational vehicles, or to provide overnight recreation camping or outdoor adventure retreats. It may provide facilities and services such as cabins, sanitary facilities, food services, recreational facilities, and organized recreational or educational activities. See Section 3103.

## **Town of Milton Unified Development Regulations • Part 5. Definitions**

- (10) **Park or Preserve.** A site maintained in a primarily unimproved natural state for passive recreation and/or conservation purposes.

### **Section 5107. Education, Government, Healthcare and Other Institutions**

- (1) **Grade School.** A state-recognized institution used to educate children from pre-school through grade 12.
- (2) **College or University.** An accredited institution of higher learning that grants undergraduate and/or graduate degrees.
- (3) **Trade or Technical School.** An establishment that offers vocational and technical training typically required for specific trades or occupations, and often leading to job-specific certification.
- (4) **Specialty School.** A commercial establishment that offers instruction, classes or training such on a specific topic such as cooking, arts, crafts, dance, music, sports or fitness.
- (5) **Government Office or Courthouse.** An establishment used by federal, state or local government agencies to administer, oversee and manage public programs, and to carry-out government functions. This definition specifically excludes public safety facility and highway maintenance facility.
- (6) **Public Safety Facility.** An establishment that provides fire, rescue, police and/or emergency response services.
- (7) **Highway Maintenance Facility.** An establishment used to store, maintain and repair the vehicles, machinery, equipment and materials necessary for public highway repair and maintenance.
- (8) **Medical Clinic.** An establishment from which one or more licensed practitioners provide healthcare services to people primarily as outpatients.
- (9) **Supervision and Rehabilitation Service.** An establishment other than a licensed hospital or group home that provides protective supervision and/or counseling to people with mental illness, substance abuse problems, emotional problems, or physical or mental disabilities or impairments, and that may offer residential or accommodation services.
- (10) **Social Assistance and Charitable Service.** An establishment that provides social assistance services directly to individuals, and that does not offer residential or accommodation services.
- (11) **Child Day Care.** An establishment that cares primarily for infants and preschool-age children, as well as older children when school is not in session.
- (12) **Religious Institution.** An establishment that is primarily designed for worship and religious congregations. It may also include classrooms, residential quarters, and spaces to accommodate social activities as an accessory use.
- (13) **Funeral and Cremation Service.** An establishment intended to prepare deceased people for burial or cremation, to cremate the remains of deceased people, and/or to hold funeral services.
- (14) **Cemetery.** A site designed to inter or otherwise store the remains of deceased people.

## **Town of Milton Unified Development Regulations • Part 5. Definitions**

- (15) **Social and Membership Organization.** A private establishment that is the premises of an nonprofit organization that meets periodically to promote some social, service, educational, athletic or recreational objectives and that caters exclusively to members and their guests.

### **Section 5108. Mining, Agriculture and Forestry**

- (1) **Mining and Quarrying.** An establishment that dredges, quarries, mines, or develops mine sites for crushed and broken stones, limestone, sand, gravel, clay, topsoil, or other stones and nonmetallic minerals. It may include on-site processing such as crushing, grinding, washing or screening.
- (2) **Agriculture or Forestry.** An establishment that grows crops, raises animals, harvests timber, or harvests plants or animals from their natural habitats.
- (3) **Greenhouse or Nursery.** A commercial establishment that grows nursery products, nursery stock, trees, shrubs or flowers. It may include retail sale of products grown on-site as an accessory use.
- (4) **Stable or Riding Facility.** An establishment intended to house, train or care for horses.
- (5) **Agriculture Support Service.** An establishment that performs support activities related to raising livestock such as breeding services, livestock sales or auctions, and slaughterhouses or slaughtering services.
- (6) **Firewood Production or Sawmill.** An establishment that processes timber harvested off-site into firewood or wood products such as lumber, plywood, veneer, etc.
- (7) **Fishing and Game Preserves.** An establishment that engages in commercial hunting or trapping, or that operate commercial or recreational game or hunting preserves.
- (8) **Agricultural Enterprise.** An establishment that engages in agri-tourism, agri-education, direct marketing of locally-produced farm or forest products, or that adds value to locally-produced farm or forest products. See Section 3117.



## Chapter 520. Defined Terms

### Section 5201. A

- (1) **Abandonment** means the cessation of maintenance, practice or use, whether with the intention to resume or not.
- (2) **Accessible** means a site, structure, dwelling unit or other facility that complies with the standards of the Americans with Disabilities Act (ADA) and that can be approached, entered and used by people with physical disabilities or impairments.
- (3) **Affordable Housing** means ownership or rental housing with a total housing cost that does not exceed 30% of the household income of a household earning 80% of the median income in Chittenden County, and that is subject to covenants or restrictions that will preserve that affordability for at least 15 years.
- (4) **Ancillary** means a use or structure on a lot that is customarily incidental and subordinate to the principal use or structure on that lot.

### Section 5202. B

- (1) **Bedroom** means a room located within a dwelling that the residents use primarily as private sleeping quarters or that was designed for such use and has at least one window, one closet, one interior door that allows the room to be closed off from the remainder of the dwelling, and a floor area of at least 80 square feet.
- (2) **Bicycle Rack** means a metal frame securely anchored to the ground that is designed to accommodate at least 2 bicycles, allows the bicycles to be locked to the frame with standard user-supplied locks, and is sufficiently separated from vehicular use areas to protect parked bicycles from damage.
- (3) **Blighted** means a structure that exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare; it may include structures that are secure but have excessive chipping lead paint.
- (4) **Building** means a structure with a roof that is supported by walls or columns, which is intended for the shelter, housing or enclosure of people, animals, vehicles, equipment, processes, goods or materials of any kind.
- (5) **Building, Accessory** means a building that is clearly and customarily incidental and subordinate to the principal building on the lot.
- (6) **Building, Attached** means a building that has at least part of a wall in common with another building or that is connected to another building by a roof.
- (7) **Building, Detached** means a building that is freestanding and structurally separated from other buildings.
- (8) **Building, Principal** means the main or predominate building in which the principal use on the lot is located.
- (9) **Building Coverage** means that part or percent of a lot occupied by buildings, accessory buildings, porches, decks, and in-ground and above ground swimming pools.
- (10) **Building Facade** means the front of a building or any of its sides facing a street or other public space.

## **Town of Milton Unified Development Regulations • Part 5. Definitions**

- (11) **Building Footprint** means the area encompassed by a building's exterior walls at ground level.
- (12) **Building Frontline** means a line extending parallel from the exterior front wall of a building.
- (13) **Building Perimeter** means the total length of a building's exterior walls at ground level.

### **Section 5203. C**

- (1) **Conforming** means a lawful use, structure or lot that complies with all applicable provisions of these regulations.
- (2) **Corner Visibility** means a triangular area formed by the intersection of streets and/or driveways that must remain clear of visual intrusions that would limit the ability of motorists, bicyclists and pedestrians to safely navigate the intersection.

### **Section 5204. D**

- (1) **Damaged** means a structure open to the outside elements, persons and wildlife due to unsecured walls, roofs, doorways, windows or other similar elements.
- (2) **Deck** means an unroofed platform, either freestanding or attached to a building, that is raised above ground level and supported by pillars or posts.
- (3) **Demolition** means the intentional destruction and physical removal of a structure or portion of a structure from a lot.
- (4) **Development.** See definition of **Land Development**.
- (5) **Discontinued** means a use that has ceased operation.
- (6) **Driveway** means a vehicular way that provides access from a street to a parking space, loading area, garage or other structure on private property, and that serves not more than 3 lots, 3 principal buildings on a lot, or 50 dwelling units (whichever is most restrictive).
- (7) **Driveway, Shared** means a driveway that provides access to more than two lots.
- (8) **Dwelling Unit** means a structure or portion of a structure intended for habitation by one household that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation, and that is not less than 250 square feet in area.
- (9) **Dwelling, Accessory** means a secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or within an accessory structure on the same lot (see Section 1110).

### **Section 5205. E**

- (1) **Enclosed** means a structure with walls on all sides and a roof.
- (2) **Expansion** means increasing the area or volume occupied by or devoted to use.

## Town of Milton Unified Development Regulations • Part 5. Definitions

### Section 5206. F

- (1) **Family.** See definition of **Household**.
- (2) **Farm Structure** (as defined in 24 V.S.A. § 4413(d)) means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, storing crops or livestock feed, or carrying out other practices associated with farming in accordance with accepted agricultural practices, but specifically excluding any dwelling for human habitation, and that is used for agricultural production that meets one or more of the following (from the Vermont Agency of Agriculture, Food and Markets Accepted Agricultural Practice Regulations):
  - (a) Is used in connection with the sale of \$1,000 or more of agricultural products in a normal year;
  - (b) Is used in connection with the raising, feeding, and management of at least the following number of adult animals: 4 equines; 5 cattle or American bison; 15 swine; 15 goats; 15 sheep; 15 fallow deer; 15 red deer; 50 turkeys; 50 geese; 100 laying hens; 250 broilers, pheasant, Chukar partridge, or Coturnix quail; 3 camelids; 4 ratites (ostriches, rheas, and emus); 30 rabbits; 100 ducks; or 1,000 pounds of cultured trout;
  - (c) Is used by a farmer filing with the Internal Revenue Service a 1040 (F) income tax statement in at least one of the past two years; or
  - (d) Is on a farm with a business and farm management plan approved by the Secretary of the Vermont Agency of Agriculture, Food and Markets.
- (3) **Farming** (as defined in 10 V.S.A. § 6001(22)) means the:
  - (a) Cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops;
  - (b) Raising, feeding, or management of livestock, poultry, fish, or bees; or the operation of greenhouses;
  - (c) Production of maple syrup;
  - (d) On-site storage, preparation and sale of agricultural products principally produced on the farm;
  - (e) On-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or
  - (f) Raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines.
- (4) **Flat Roof** means any roof with a slope of not more than 5% (or 0.6:12 pitch).
- (5) **Floor Area Ratio** means the ratio of gross floor area to the total lot area.
- (6) **Franchise or Corporate Architecture** means a standardized design that is trademarked or identified with a particular chain or corporation and that is replicated in multiple locations with minimal variation.
- (7) **Front yard** means the area between the facade of the principal building and the lot frontage.

**Section 5207. G**

- (1) **Glare** means light entering the eye directly from a light source or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.
- (2) **Green Stormwater Infrastructure (GSI)** means a range of soil-water-plant systems and practices that intercept and capture stormwater near the source in order to infiltrate a portion of it into the ground, evaporate a portion of it into the air, and/or in some cases release a portion of it slowly back into municipal or community stormwater systems (as compared to conventional stormwater systems that are designed to divert water away from a site quickly).
- (3) **Gross Floor Area** means the sum of the total horizontal area of all enclosed floors of a building as measured from the exterior face of the exterior walls or the centerline of a common wall between attached buildings including any heated space in a basement, attic or mezzanine with a floor-to-ceiling height of 7 feet or more.
- (4) **Ground Floor** means the floor of a building that is most closely aligned with the sidewalk, or if no sidewalk the finished grade along the building's front facade that provides convenient public access to the building.

**Section 5208. H**

- (1) **Handicap or Disability** (as defined in 9 V.S.A. § 4501) means a physical or mental impairment that limits one or more major life activities. This definition specifically excludes a person who is an alcoholic or drug abuser and who constitutes a direct threat to property or the safety of others due to current alcohol or drug use.
- (2) **Hazardous Material** means any substance or material that by reason of its form, quantity, toxic, caustic, corrosive, abrasive or otherwise injurious properties may pose a risk to health, safety or property including, but not limited to, explosives, radioactive materials, etiologic agents, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, compressed gasses, or any substance defined in Section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980.
- (3) **Hazardous Waste** (as defined in 10 V.S.A. § 6602(4)) means any waste or combination of wastes of a solid, liquid, contained gaseous or semi-solid form, including, but not limited to, those which are toxic, corrosive, ignitable, reactive, strong sensitizers or which generate pressure through decomposition, heat or other means, which in the judgment of the Secretary of the Vermont Agency of Natural Resources may cause or contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability in nature, and its potential for assimilation, or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms, or any matter which may have an unusually destructive effect on water quality if discharged to ground or surface waters of the state. All special nuclear, source, or by-product material, as defined by the Atomic Energy Act of 1954 and amendments thereto, codified in 42 U.S.C. § 2014, is specifically excluded from this definition.
- (4) **Height** means the measurement in feet taken from the average finished grade at ground level to the highest point on the structure.

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- (5) **Household** means either one or more people related by blood, marriage or adoption, or not more than 8 unrelated people living together in a dwelling unit with common use of the living and cooking facilities.

### Section 5209. I

- (1) **Impervious Surface** means a surface composed of a material that impedes or prevents the natural infiltration of water into the soil including, but not limited to, rooftops, streets, driveways, sidewalks, walkways, patios and similar hard-surfaced areas whether constructed of concrete, asphalt, stone, brick, gravel or compacted earth, unless they are specifically designed, constructed and maintained to be pervious.
- (2) **Indoors** means the space within a building fully protected from the elements by a roof and walls.
- (3) **Interested Person** (as defined in 24 V.S.A. § 4465(b)) means:
  - (a) The applicant;
  - (b) The Town of Milton or any adjoining municipality;
  - (c) A person owning or occupying property in the immediate neighborhood who can demonstrate a physical or environmental impact on his or her property, and who alleges that a decision made under these regulations is not or will not be in accord with the *Milton Comprehensive Plan* or these regulations.
  - (d) Any 10 people, who may be any combination of Milton voters or landowners, who allege that a decision or act made under these regulations is not or will not be in accord with the *Milton Comprehensive Plan* or these regulations by a signed petition. The petition must designate one person to serve as the group's representative.
  - (e) Any department and administrative subdivision of the state owning property or any interest in property in Milton; or
  - (f) The Vermont Agency of Commerce and Community Development.
- (4) **Irregularly Shaped Lot** means a triangular lot with 3 sides, a lot fronting on the loop portion of a cul-de-sac, or a multi-sided lot with more than 4 sides.

### Section 5210. J

- (1) **Junk** (as defined in 24 V.S.A. § 2241(5)) means old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material, including rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or motor vehicle parts.
- (2) **Junk Motor Vehicle** (as defined in 24 V.S.A. § 2241(6)) means a discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or motor vehicle parts, or a motor vehicle, other than an on-premise utility vehicle, which is allowed to remain unregistered or uninspected for a period of 90 days.

### Section 5211. K

- (1) **Kennel** means a site or structure where dogs, cats or other domestic animals:
  - (a) Owned by the operator are bred and raised for sale;

## Town of Milton Unified Development Regulations • Part 5. Definitions

- (b) Not owned by the operator are boarded or provided daycare; and/or
- (c) Without an owner are sheltered.

### Section 5212. L

- (1) **Land Development** means:
  - (a) The construction, installation, demolition, reconstruction, conversion, structural alteration, relocation or enlargement of any structure;
  - (b) Mining, excavating, filling or grading land;
  - (c) Any change in, or extension of, the use of land or a structure;
  - (d) The removal of natural woody vegetation within riparian buffers;
  - (e) The adjustment or relocation of the boundary between two lots; or
  - (f) The division of a parcel into two or more lots.
- (2) **Light Fixture, Fully Shielded** means a light fixture constructed, installed and used in such a manner that all light the fixture emits (either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any of the fixture) is projected below the horizontal (downward). Spot or flood lamps are fully shielded if they are aimed straight down.
- (3) **Light Fixture, Luminous Tube** means a light fixture created by or containing gas discharge tubes that emit light or glow when electric voltage is applied.
- (4) **Light Fixture, Partially Shielded** means a light fixture constructed, installed and used in such a manner that most of the light the fixture emits (either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any of the fixture) is projected below the horizontal (downwards). Light is emitted at or above the horizontal direction (outwards or upwards) only from decorative elements or through strongly colored or diffusing materials. Spot or flood lamps are partially shielded if they are aimed no higher than 45° above straight down.
- (5) **Lot** means an area of land with identifiable boundaries and dimensions that is formally described and recorded in the town land records and that can be lawfully owned and conveyed separately from any other land.
- (6) **Lot Area** means the total horizontal area within a lot's property lines, including land over which easements have been granted but excluding any land within a street right-of-way.
- (7) **Lot Coverage** means the percentage of the lot that is covered with impervious surfaces (buildings, driveways, parking areas, patios, walkways, etc.). It is the percentage of the lot that is not greenspace.
- (8) **Lot Depth** means the mean horizontal distance between the front and rear lot lines.

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- (9) **Low Impact Development (LID)** means land planning and design approaches that seek to maintain a site's pre-development ecological and hydrological functions by protecting, enhancing, or mimicking natural processes. LID approaches include a range of non-structural practices that guide and minimize the impact of development such as following conservation design principles, minimizing soil disturbance and compaction, preserving natural drainage and water flow patterns, protecting riparian and other sensitive areas, reducing impervious surface area, disconnecting untreated stormwater run-off from waterways and storm drains.

### **Section 5213. M**

- (1) **Manufactured Home** (as defined in 10 V.S.A. § 6201(1)) means a structure that is:
  - (a) Built on a permanent chassis;
  - (b) Designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities;
  - (c) Transportable in one or more sections; and
  - (d) Certified as complying with the construction and safety standards established under Title 24 of the U.S. Code by the federal Department of Housing and Urban Development.
- (2) **Manufactured Home Park** (as defined in 10 V.S.A. § 6201(2)) means any lot or development site that contains or is designed to accommodate more than two manufactured homes. This definition specifically excludes the use of manufactured homes as farm worker housing and the retail sales or storage of manufactured homes.
- (3) **Material Change** means a change in the planned use or development of land or a structure that may have changed the decision made or any conditions placed on the permit if it had been included in the plans as approved.
- (4) **Mixed Use** means land development that includes more than one principal use.
- (5) **Motor Vehicle** means any vehicle used to transport people, animals, goods or materials propelled or drawn by power other than muscular power including trailers..

### **Section 5214. N**

- (1) **Nonconformity** means a lot, structure or use that lawfully existed prior to the adoption or revision of these regulations, but now does not conform to one or more standards of these regulations.
- (2) **Normal Repair and Maintenance** means the regular upkeep of property to avoid deterioration, fix damage caused by normal wear and tear, and/or replace worn out components, which does not result in a change in the use or dimension of any structure, or in a structural alteration.
- (3) **Nonresidential** means a use that does not include dwelling units or other forms of housing intended to be the primary place of living and sleeping for its occupants.

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### Section 5215. O

### Section 5216. P

- (1) **Parcel.** See definition of **Lot**.
- (2) **Passive Outdoor Recreation**
- (3) **Pave** means to cover the ground with asphalt, concrete, stones, gravel, brick, tile, wood, compacted earth or other impervious materials in order to make a firm, level surface.
- (4) **Pavement** means asphalt, concrete, stones, gravel, brick, tile, wood, compacted earth or other impervious materials used to cover the ground in order to make a firm, level surface.
- (5) **Previously Developed Lot** means a lot that has been altered by land use, construction or paving that would, if undertaken anew, require a permit under these regulations. Land that has been altered for agriculture, forestry or conservation purposes will not be considered previously developed. A lot for which a permit has been issued, but the land development has not commenced, will not be considered previously developed.
- (6) **Public Art** means a fountain, monument, sculpture, painting, mural or similar art object that:
  - (a) Is accessible to public view, typically located outdoors;
  - (b) Is intended for the enjoyment of the general public; and
  - (c) Does not function as a sign by identifying a business, profession or industry, the type of products sold, manufactured or assembled, or the type of services or entertainment offered or available on the premises.

### Section 5217. Q

### Section 5218. R

- (1) **Rehabilitate** means to repair and/or improve a substandard structure in a manner that preserves or restores its architectural style.
- (2) **Residential** means a structure or portion of a structure that serves as the principal place of living and sleeping for its occupants.
- (3) **Road, Class 4** means a publicly controlled or owned road, street, or highway not meeting any of the State definitions for Class 1, 2, and 3 highways. In Milton, the Selectboard has determined Class 4 roads to include the following:
  - (a) Swamp Road, Town Highway 11, length of 1.20 miles
  - (b) Timber Lane, Town Highway 17, length of 0.20 miles
  - (c) Dixon Road, Town Highway 24, length of 0.47 miles
  - (d) Bezio Road, Town Highway 25, length of 0.14 miles
  - (e) Marcoux Road, Town Highway 26, length of 0.10 miles
  - (f) Slim Brown Road, Town Highway 29, length of 0.06 and 0.10 miles.
  - (g) Kingsbury Road, Town Highway 35, length of 0.16 miles



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- (h) Hardscrabble Road, Town Highway 36, length of 0.70 miles
- (i) Devino Road, Town Highway 39, length of 0.50 miles
- (j) Lamphere Road, Town Highway 41, length of 0.65 miles
- (k) Dugout Road, Town Highway 42, length of 0.20 miles
- (l) Lady Slipper Lane, Town Highway 56, length of 0.25 miles
- (m) PreCast Road, Town Highway 58, length of 0.10 miles
- (n) Petty Brook Road, Town Highway 60, length of 0.13 miles
- (o) Kienle Road, Town Highway 69, length of 0.13 miles
- (p) Ritchie Avenue, Town Highway 72, length of 0.20 miles
- (q) Erling Drive, Town Highway 78, length of 0.03 miles
- (r) Doris Drive, Town Highway 94, length of 0.06 miles

### Section 5219. S

- (1) **Screen** means to conceal, shield or obscure a structure or use with walls, fencing, landscaping, berms or a combination so that it is no longer visually prominent from public vantage points and adjacent properties.
- (2) **Secured** means a structure closed to outside elements, persons and wildlife. A secured structure is also not a **Blighted** or **Damaged** structure.
- (3) **Shoreline** means the line formed where the mean high watermark of lakes or ponds meets the land.
- (4) **Shrub, Large** means a shrub with a mature or maintained height of at least 6 feet.
- (5) **Shrub, Medium** means a shrub with a mature or maintained height of at least 3 and less than 6 feet.
- (6) **Shrub, Small** means a shrub with a mature or maintained height of less than 3 feet.
- (7) **Sign** means any device (including but not limited to letters, words, numerals, figures, emblems, symbols, pictures, flags, streamers, balloons, lights, or any part or combination) used for visual communication intended to attract the attention of the public and visible from public rights-of-way or other properties. This definition specifically excludes merchandise normally displayed in a storefront window, merchandise displayed or stored outside as approved under these regulations, and public art.
- (8) **Smart Growth** means land development that:
  - (a) Maintains the historic development pattern of compact village and urban centers separated by rural countryside, rather than a linear pattern of development along well-traveled roads that lacks depth as measured from the highway.
  - (b) Develops compact mixed-use centers at a scale appropriate for the community and the region rather than scattered development located outside compact centers that is excessively land consumptive.
  - (c) Enables choice in modes of transportation and does not limit transportation options, especially for pedestrians.

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- (d) Protects important environmental, natural and historic features, including natural areas, water quality, scenic resources, and historic sites and districts.
  - (e) Serves to strengthen agricultural and forest industries, minimizes conflicts of development with these industries, and avoids the fragmentation of farm and forest land.
  - (f) Balances growth with the availability of economic and efficient public utilities and services, and does not require extension of municipal infrastructure across undeveloped lands in a manner that would extend service to lands located outside compact village and urban centers.
  - (g) Supports a diversity of viable businesses in downtowns and villages.
  - (h) Provides for housing that meets the needs of a diversity of social and income groups in each community.
- (9) **Solar Energy Device** means a device that transforms direct solar energy into thermal, chemical or electrical energy including, but not limited to, solar hot water systems and solar photovoltaic systems.
- (10) **Strip Development** means a linear development pattern along an arterial street or highway that is generally characterized by:
- (a) Broad street frontage;
  - (b) Predominance of single-story buildings;
  - (c) Predominance of single-use buildings and properties;
  - (d) Predominance of parking and auto-oriented features visible from the frontage;
  - (e) Limited provision for shared or cross access;
  - (f) Limited provision for access by walking, biking or transit; and/or
  - (g) Lack of coordination with and connections to surrounding neighborhoods and land uses except by vehicle and by the street.
- (11) **Structural Alteration** means a change in the dimension or configuration of a structure's roof, or any exterior walls or other supporting members, including but not limited to, any change in the dimension, location or number of windows or doors.
- (12) **Structure** (as defined in as defined in 24 V.S.A. § 4303(27)) means an assembly of materials for occupancy or use.
- (13) **Structure, Accessory** means a detached subordinate structure, the use of which is clearly and customarily incidental to that of a principal structure or use.
- (14) **Structure, Damaged** means a structure that has suffered an unintentional partial loss that is feasible to repair.
- (15) **Structure, Destroyed** means a structure that has suffered an unintentional total loss that is not feasible to repair.
- (16) **Structure, Principal** means the structure on a lot from which the principal use is conducted. On a lot with a single- or two-family dwelling, the dwelling will be considered the principal structure.

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- (17) **Subdivision** means any land, vacant or improved, that is divided or proposed to be divided into two or more lots, parcels, sites, units, plots, or interests for the purpose of offer, sale, lease, or development. The term includes amended subdivisions and resubdivisions. The term also includes the development of a parcel of land as a planned unit development.
- (18) **Swimming Pool** means a water-filled enclosure with a depth of 24 inches or more designed or used for swimming or bathing, whether permanently constructed or portable, and whether above or below the surrounding natural grade.

### **Section 5220. T**

- (1) **Temporary** means a use or structure that will be occurring or located on a lot for a limited and fixed period of time after which there will be no evidence remaining of the use or structure.
- (2) **Trip** or trip end means a single or one direction vehicle movement with either the origin or the destination (exiting or entering) inside a study site. For trip generation purposes, the total trip ends for a land use over a given period of time are the total of all trips entering plus all trips exiting a site during a designated time period.
- (3) **Trailer** means a conveyance used to transport people, animals, goods or materials that is not self-propelled and that is designed to be pulled or moved by a motor vehicle.
- (4) **Tree, Large** means a tree with a mature height of at least 50 feet.
- (5) **Tree, Medium** means a tree with a mature height of at least 30 and less than 50 feet.
- (6) **Tree, Small** means a tree with a mature height of less than 30 feet.

### **Section 5221. U**

- (1) **Unit, Nonresidential**
- (2) **Unit, Residential**
- (3) **Use** means the purpose or activity that a lot or structure (or a portion of a lot or structure) is intended, designed or arranged to house, accommodate, support or facilitate.
- (4) **Use, Accessory** means a use that is (1) customary, incidental and subordinate in area, extent and purpose to the principal use; (2) contributes to the comfort convenience or necessity of the principal use; (3) is located on the same lot and in the same district as the principal use; and (4) is not a separately owned and operated from the principal use without specific Development Review Board approval authorizing such a use.
- (5) **Use, Principal** means the main or predominate use of a lot or structure (or a portion of a lot or structure).

### **Section 5222. V**

- (1) **Vehicle.** See definition of **Motor Vehicle**.

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- (2) **Vehicle, Abandoned** means a motor vehicle that has remained on public or private property or on or along a highway without the consent of the owner or person in control of the property for more than 48 hours, and has a valid registration plate or public vehicle identification number which has not been removed, destroyed, or altered; or a motor vehicle that has remained on public or private property or on or along a highway without the consent of the owner or person in control of the property for any period of time if the vehicle does not have a valid registration plate or the public vehicle identification number has been removed, destroyed or altered.

### **Section 5223. W**

- (1) **Water Dependent Structure or Use** means a structure or use that requires access to the water or a location adjacent to, extending over or extending into the water as a necessary component of its purpose or function.
- (2) **Wetland** (as defined in 24 V.S.A. § 4303(32)) means an area that is inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depends on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include, but are not limited to, marshes, swamps, sloughs, potholes, fens, river and lake overflows, mudflats, bogs and ponds.

### **Section 5224. X**

### **Section 5225. Y**

- (1) **Yard** means an at-grade, pervious open space on a developed lot that is unoccupied by any structure except for encroachments specifically authorized under these regulations.
- (2) **Yard, Front** means the yard that is located between the street and the nearest line of the principal building on the lot and extends across the full width of the lot. A corner lot will be considered to have two front yards.
- (3) **Yard, Rear** means the yard that is located between the rear lot line and the nearest line of the principal building on the lot and extends across the full width of the lot. A corner lot will be considered to have no rear yard.
- (4) **Yard, Required** means a yard or portion of a yard that is the depth required by the minimum setback established in the zoning district.
- (5) **Yard, Side** means a yard that is located between the side lot line and the nearest line of the principal building on the lot and extends between the front and rear yards.

### **Section 5226. Z**